

By: Carona

S.B. No. 1090

A BILL TO BE ENTITLED

AN ACT

relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 754, Health and Safety Code, is amended to read as follows:

SUBCHAPTER B. INSPECTION, ~~[AND]~~ CERTIFICATION, REGISTRATION, AND
LICENSING

Sec. 754.011. DEFINITIONS. In this subchapter:

(1) "Acceptance inspection" means an inspection performed at the completion of the initial installation or alteration of equipment and in accordance with the applicable ASME Code A17.1.

(2) "Accident" means an event involving equipment that results in death or serious bodily injury to a person.

(3) "Alteration" means a change in or modernization of existing equipment. The term does not include maintenance, repair, replacement, or a cosmetic change that does not affect the operational safety of the equipment or diminish the safety of the equipment below the level required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, at the time of alteration.

1 (4) "Annual inspection" means an inspection of
2 equipment performed in a 12-month period in accordance with the
3 applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or
4 ASCE Code 21. The term includes an acceptance inspection performed
5 within that period.

6 (5) "ASCE Code 21" means the American Society of Civil
7 Engineers Code 21 for people movers operated by cables.

8 (6) "ASME Code A17.1" means the American Society of
9 Mechanical Engineers Safety Code for Elevators and Escalators
10 A17.1.

11 (7) [~~2~~] "ASME Code A17.3" means the 2002 American
12 Society of Mechanical Engineers Safety Code for Elevators and
13 Escalators A17.3.

14 (8) "ASME Code A18.1" means the American Society of
15 Mechanical Engineers Safety Code for Platform Lifts and Stairway
16 Chairlifts A18.1.

17 (9) [~~3~~] "Board" means the elevator advisory board.

18 (10) [~~4~~] "Commission" means the Texas Commission of
19 Licensing and Regulation.

20 (11) [~~5~~] "Commissioner" means the commissioner of
21 licensing and regulation.

22 (12) "Contractor" means a person, other than an
23 elevator mechanic licensed under Section 754.0172, engaged in the
24 installation, repair, or maintenance of equipment. The term does
25 not include an elevator cab renovator licensed under Section
26 754.0173 and engaged in activities authorized under that license or
27 a person engaged in cleaning or any other work performed on

1 equipment that does not affect the operational safety of the
2 equipment or diminish the safety of the equipment below the level
3 required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1,
4 or ASCE Code 21, as applicable.

5 (13) [~~6~~] "Department" means the Texas Department of
6 Licensing and Regulation.

7 (14) "Equipment" means an elevator, escalator,
8 chairlift, platform lift, automated people mover operated by
9 cables, or moving sidewalk, or related equipment.

10 (15) "Industrial facility" means a facility to which
11 access is primarily limited to employees of the facility.

12 (16) [~~7~~] "Qualified historic building or facility"
13 means a building or facility that is:

14 (A) listed in or eligible for listing in the
15 National Register of Historic Places; or

16 (B) designated as a Recorded Texas Historic
17 Landmark or State Archeological Landmark.

18 (17) [~~8~~] "Related equipment" means:

19 (A) automatic equipment that is used to move a
20 person in a manner that is similar to that of an elevator, an [~~or~~]
21 escalator, a chairlift, a platform lift, an automated people mover
22 operated by cables, or [~~and includes~~] a moving sidewalk; and

23 (B) hoistways, pits, and machine rooms for
24 equipment.

25 (18) "Serious bodily injury" means a major impairment
26 to bodily function or serious dysfunction of any bodily organ or
27 part requiring medical attention.

1 (19) "Unit of equipment" means one elevator,
2 escalator, chairlift, platform lift, automated people mover
3 operated by cables, or moving sidewalk, or related equipment.

4 Sec. 754.0111. EXEMPTION. (a) This subchapter does not
5 apply to [~~an elevator, escalator, or related~~] equipment in a
6 private building owned by [~~for~~] a labor union, trade association,
7 private club, or charitable organization that has two or fewer
8 floors.

9 (b) This subchapter does not apply to an elevator located in
10 a single-family dwelling, except as provided by Section 754.0141.

11 Sec. 754.012. ELEVATOR ADVISORY BOARD. (a) The elevator
12 advisory board is composed of 13 [~~nine~~] members appointed by the
13 governor [~~commissioner~~] as follows:

14 (1) a representative of the insurance industry or a
15 certified elevator inspector;

16 (2) a representative of [~~elevator, escalator, and~~
17 ~~related~~] equipment constructors;

18 (3) a representative of owners or managers of a
19 building [~~buildings~~] having fewer than six stories and having [~~an~~
20 ~~elevator, an escalator, or related~~] equipment;

21 (4) a representative of owners or managers of a
22 building [~~buildings~~] having six stories or more and having [~~an~~
23 ~~elevator, an escalator, or related~~] equipment;

24 (5) a representative of [~~independent elevator,~~
25 ~~escalator, and related~~] equipment maintenance companies;

26 (6) a representative of [~~elevator, escalator, and~~
27 ~~related~~] equipment manufacturers;

1 (7) a licensed or registered engineer or architect
2 ~~[representative of professional engineers or architects]~~;

3 (8) five ~~[a]~~ public members ~~[member]~~; and

4 (9) a public member with a physical disability.

5 (b) Each board member serves ~~[Board members serve]~~ at the
6 will of the governor and, unless removed by the governor, until the
7 member's successor is appointed by the governor ~~[commissioner]~~.

8 (c) The governor ~~[commissioner]~~ shall appoint a presiding
9 officer of the board.

10 (d) The board shall meet at least twice each calendar year.

11 (e) A board member serves without compensation but is
12 entitled to reimbursement for travel as provided for in the General
13 Appropriations Act ~~[and other necessary expenses incurred in~~
14 ~~performing duties under this subchapter]~~.

15 Sec. 754.013. BOARD DUTIES. To protect public safety and to
16 identify and correct potential hazards, the board shall advise the
17 commissioner on:

18 (1) the adoption of appropriate standards for the
19 installation, alteration, operation, and inspection of ~~[elevators,~~
20 ~~escalators, and related]~~ equipment;

21 (2) the status of ~~[elevators, escalators, and related]~~
22 equipment used by the public in this state; ~~[and]~~

23 (3) sources of information relating to equipment
24 safety;

25 (4) public awareness programs related to elevator
26 safety, including programs for sellers and buyers of single-family
27 dwelling with elevators, chairlifts, or platform lifts; and

1 (5) any other matter considered relevant by the
2 commissioner.

3 Sec. 754.014. STANDARDS ADOPTED BY COMMISSIONER. (a) The
4 commissioner shall adopt standards for the installation,
5 maintenance, alteration, operation, and inspection of [~~elevators,~~
6 ~~escalators, and related~~] equipment used by the public in:

7 (1) buildings owned or operated by the state, a
8 state-owned institution or agency, or a political subdivision of
9 the state; and

10 (2) buildings that contain [~~an elevator, an escalator,~~
11 ~~or related~~] equipment that is open to the general public, including
12 a hotel, motel, apartment house, boardinghouse, church, office
13 building, shopping center, or other commercial establishment.

14 (b) Standards adopted by the commissioner may not contain
15 requirements in addition to the requirements in the ASME Code
16 A17.1, [~~or~~] ASME Code A17.3, ASME Code A18.1, or ASCE Code 21. The
17 standards must allow alteration of existing equipment if the
18 alteration does not diminish the safety of the equipment below the
19 level required by this subchapter at the time of alteration.

20 (c) Standards adopted by the commissioner must require
21 [~~elevators, escalators, and related~~] equipment to comply with the
22 installation requirements of the [~~following, whichever is the least~~
23 ~~restrictive~~].

24 [~~(1) the~~] ASME Code A17.1, ASME Code A18.1, or ASCE
25 Code 21 that was in effect and applicable on the date of
26 installation of the [~~elevators, escalators, and related~~]
27 equipment[~~, or~~]

1 ~~[(2) an applicable municipal ordinance governing the~~
2 ~~installation of elevators, escalators, and related equipment that~~
3 ~~was in effect on the date of installation].~~

4 (d) Standards adopted by the commissioner must require
5 ~~[elevators, escalators, and related]~~ equipment to comply with the
6 installation requirements of the ~~[1994]~~ ASME Code A17.3 that
7 contains minimum safety standards for all ~~[elevators, escalators,~~
8 ~~and related]~~ equipment, regardless of the date of installation.

9 (e) The ~~[On written request, the]~~ commissioner shall grant a
10 delay for compliance with the applicable ASME Code A17.1, ~~[or the~~
11 ~~1994]~~ ASME Code A17.3, or ASME Code A18.1 until a specified time if
12 compliance is not readily achievable, as that phrase is defined in
13 the Americans with Disabilities Act (42 U.S.C. Section 12101 et
14 seq.), or regulations adopted under that Act. The accumulated
15 total time of all delays may not exceed three years, except as
16 provided by Subsection (f) or as allowed in the discretion of the
17 commissioner.

18 (f) The ~~[On written request, the]~~ commissioner shall grant a
19 delay until September 1, 2005, for compliance with the requirements
20 for door restrictors or firefighter's service in the ~~[1994]~~ ASME
21 Code A17.3 if those requirements were not included in the ASME Code
22 A17.1 that was in effect on the date of installation ~~[of the~~
23 ~~elevator, escalator, or related equipment]~~ and the ~~[that]~~ equipment
24 was not subsequently installed ~~[by an owner of the elevator,~~
25 ~~escalator, or related equipment].~~

26 (g) The commissioner may grant a waiver of compliance from
27 an applicable code requirement ~~[with the applicable ASME Code A17.1~~

1 ~~or the 1994 ASME Code A17.3~~] if the commissioner finds that:

2 (1) the building in which the ~~[elevator, escalator, or~~
3 ~~related]~~ equipment is located is a qualified historic building or
4 facility or the noncompliance is due to structural components of
5 the building; ~~and]~~

6 (2) noncompliance will not constitute a significant
7 threat to passenger safety; and

8 (3) noncompliance, with adequate alternative
9 safeguards, will not constitute a significant threat to worker
10 safety.

11 (h) The commissioner shall grant a waiver of compliance if
12 the noncompliance resulted from compliance with a municipal
13 equipment construction code at the time of the original
14 installation and the noncompliance does not pose imminent and
15 significant danger. The commissioner may grant a waiver of
16 compliance with the firefighter's service provisions of the ASME
17 Code A17.1 or the ~~[1994]~~ ASME Code A17.3 in an elevator that
18 exclusively serves a vehicle parking garage in a building that:

19 (1) is used only for parking;

20 (2) is constructed of noncombustible materials; and

21 (3) is not greater than 75 feet in height.

22 (i) This subchapter does not apply to ~~[an elevator, an~~
23 ~~escalator, or related]~~ equipment in an industrial facility, or in a
24 grain silo, radio antenna, bridge tower, underground facility, or
25 dam, to which access is limited primarily ~~[principally]~~ to
26 employees of or working in that facility or structure.

27 (j) ~~[The commissioner may charge a reasonable fee as set by~~

1 ~~the commission for an application for waiver or delay.]~~ One
2 application for a waiver or delay may contain all requests related
3 to a unit of equipment ~~[particular building]~~. A delay may not be
4 granted indefinitely but must be granted for ~~[to]~~ a specified time
5 not to exceed three years.

6 (k) For purposes of this section, the date of installation
7 or alteration of equipment is the date that the owner of the real
8 property entered into a contract for the installation or alteration
9 of the ~~[purchase of the elevators, escalators, or related]~~
10 equipment. If that date cannot be established, the date of
11 installation or alteration is the date of issuance of the municipal
12 building permit under which the ~~[elevators, escalators, or related]~~
13 equipment was installed or altered ~~[constructed]~~ or, if a municipal
14 building permit was not issued, the date that electrical
15 consumption began for the construction of the building in which the
16 ~~[elevators, escalators, or related]~~ equipment was installed.

17 Sec. 745.0141. STANDARDS FOR EQUIPMENT IN SINGLE-FAMILY
18 DWELLINGS; REQUIRED INFORMATION. (a) Elevators, chairlifts, or
19 platform lifts installed in a single-family dwelling on or after
20 January 1, 2004, must comply with the ASME Code A17.1 or A18.1, as
21 applicable, and must be inspected by a QEI-1 certified inspector
22 after the installation is complete. The inspector shall provide
23 the dwelling owner a copy of the inspection report.

24 (b) The commissioner shall, before January 1, 2004, adopt
25 rules containing minimum safety standards that must be used by
26 QEI-1 certified inspectors when inspecting elevators, chairlifts,
27 and platform lifts installed in single-family dwellings.

1 (c) A municipality may withhold a certificate of occupancy
2 for a dwelling or for the installation of the elevator or chairlift
3 until the owner provides a copy of the QEI-1 inspection report to
4 the municipality.

5 (d) A contractor is not required to report to the department
6 any information concerning equipment in a single-family dwelling or
7 the contractor's work on the equipment.

8 (e) On completing installation of equipment in a
9 single-family dwelling, a contractor shall provide the dwelling
10 owner with relevant information, in writing, about use, safety, and
11 maintenance of the equipment, including the advisability of having
12 the equipment periodically and timely inspected by a QEI-1
13 certified inspector.

14 (f) An inspection by a QEI-1 certified inspector of
15 equipment in a single-family dwelling may be performed only at the
16 request and with the consent of the owner. The owner of a
17 single-family dwelling is not subject to Section 754.022, 754.023,
18 or 754.024.

19 Sec. 754.015. RULES. (a) The commissioner by rule shall
20 provide for:

21 (1) an annual ~~[the]~~ inspection and certification of
22 the ~~[once each calendar year of elevators, escalators, and related]~~
23 equipment covered by standards adopted under this subchapter;

24 (2) ~~[the]~~ enforcement of those standards;

25 (3) registration ~~[the certification]~~ of qualified
26 ~~[persons as]~~ inspectors and contractors ~~[for the purposes of this~~
27 ~~subchapter]; [and]~~

1 (4) licensure of elevator mechanics and elevator cab
2 renovators;

3 (5) the form of [the] inspection documents, contractor
4 reports, [report] and certificates [certificate] of compliance;

5 (6) notification to building owners, architects, and
6 other building industry professionals regarding the necessity of
7 annually inspecting equipment;

8 (7) approval of continuing education programs for
9 registered QEI-1 certified inspectors and licensed elevator
10 mechanics; and

11 (8) standards of conduct for individuals who are
12 licensed or registered under this subchapter.

13 (b) The commissioner by rule may not ~~[require that]~~:

14 (1) require inspections of equipment to [inspection]
15 be made more often than every 12 months, except as provided by
16 Subsection (c) [once per year of elevators, escalators, and related
17 equipment];

18 (2) require persons to post a bond or furnish
19 insurance or to have minimum experience or education as a condition
20 of certification, registration, or licensure; [and]

21 (3) require inspection reports or certificates of
22 compliance to be placed in locations other than one provided in
23 Section 754.019(a)(4);

24 (4) require building owners to submit to the
25 department proposed plans for equipment installation or
26 alteration;

27 (5) prohibit a QEI-1 certified inspector who is

1 registered with the department from inspecting equipment; or

2 (6) require an inspection report or certificate of
3 compliance to be placed inside or immediately outside an elevator
4 cab or escalator or in the lobby or hallways of a building.

5 (c) The commissioner by rule may require a reinspection or
6 recertification of equipment if the equipment has been altered and
7 poses a significant threat to passenger or worker safety or if an
8 annual inspection report indicates an existing violation has
9 continued longer than permitted in a delay granted by the
10 commissioner.

11 (d) The commissioner by rule may charge a fee for:

12 (1) registering or renewing registration of an
13 inspector, not to exceed \$200;

14 (2) registering or renewing registration of a
15 contractor, not to exceed \$300;

16 (3) applying for a certificate of compliance, not to
17 exceed \$15 for each unit of equipment;

18 (4) filing an inspection report as required by Section
19 754.019(a)(3), 30 days or more after the date the report is due, not
20 to exceed \$3 for each day the report remains not filed after the
21 date the report is due;

22 (5) applying for a waiver or delay, not to exceed \$100
23 for each violation;

24 (6) applying for a license or license renewal, not to
25 exceed \$125;

26 (7) applying for a 30-day temporary or emergency
27 license or license renewal, not to exceed \$125;

1 (8) reinstating an expired license in accordance with
2 this subchapter, not to exceed \$250;

3 (9) applying for approval of a continuing education
4 program for licensed elevator mechanics or registered QEI-1
5 inspectors, other than a program sponsored by the department, not
6 to exceed \$200;

7 (10) attending a continuing education program
8 sponsored by the department for licensed elevator mechanics or
9 registered QEI-1 inspectors, not to exceed \$75; and

10 (11) applying for approval or certification of a
11 long-term education program, not to exceed \$500 [754.019(4)].

12 Sec. 754.016. INSPECTION DOCUMENTS ~~[REPORT]~~ AND
13 CERTIFICATE OF COMPLIANCE. (a) An inspection report and a
14 certificate of compliance required under this subchapter must cover
15 each unit of ~~[all elevators, escalators, and related]~~ equipment ~~[in~~
16 ~~a building or structure appurtenant to the building, including a~~
17 ~~parking facility, that are owned by the same person or persons]~~.
18 There shall be separate ~~[only one]~~ inspection reports ~~[report]~~ and
19 certificates ~~[one certificate]~~ of compliance for each unit of
20 equipment ~~[building]~~.

21 (b) An inspector shall date and sign an inspection report
22 and shall issue the report to the building owner not later than the
23 10th calendar day after the date of inspection. ~~[The inspection~~
24 ~~report shall be on forms designated by the commissioner.]~~

25 (c) The commissioner shall ~~[date and sign a certificate of~~
26 ~~compliance and shall]~~ issue a ~~[the]~~ certificate of compliance to
27 the building owner if an application is submitted by the building

1 owner with applicable fees and the application reflects that:

2 (1) the~~[- The certificate of compliance shall state~~
3 ~~that the elevators, escalators, and related]~~ equipment has ~~[have]~~
4 been inspected by a certified inspector;

5 (2) the inspection report shows the equipment is ~~[and~~
6 ~~found by the inspector to be]~~ in compliance with the requirements of
7 this chapter; and

8 (3) to the extent the report shows any noncompliance
9 that does not pose an imminent and significant danger, the building
10 owner:

11 (A) acknowledges the noncompliance will be
12 remedied within a reasonable period, not later than six months
13 following the date of the inspection report; or

14 (B) has been granted a waiver or delay for
15 compliance by the commissioner~~[- except for any delays or waivers~~
16 ~~granted by the commissioner and stated in the certificate].~~

17 Sec. 754.017. CERTIFIED INSPECTORS. (a) In order to
18 inspect equipment, an individual must:

19 (1) be registered ~~[An inspector must register]~~ with
20 the department;

21 (2) attend educational programs approved by the
22 department;

23 (3) [and] be certified as a QEI-1 ~~[an ASME-QEI-1]~~
24 inspector by an organization accredited by the American Society of
25 Mechanical Engineers; and

26 (4) pay all applicable fees. ~~[Any certification~~
27 ~~charges or fees shall be paid by the inspector.]~~

1 (b) ~~[The commissioner may not by rule prohibit an ASME-QEI-1~~
2 ~~certified inspector who is registered with the department from~~
3 ~~inspecting under this subchapter an elevator, an escalator, or~~
4 ~~related equipment.]~~ A person assisting a certified inspector and
5 working under the direct, on-site supervision of the inspector is
6 not required to be ~~[ASME-QEI-1]~~ certified.

7 (c) A registration expires on the first anniversary of the
8 date of issuance.

9 (d) A certified inspector may not be required to attend more
10 than seven hours of continuing education during each licensing
11 period. ~~[The commissioner may charge a \$15 fee to certified~~
12 ~~inspectors for registering with the department.]~~

13 Sec. 754.0171. CONTRACTOR REGISTRATION. (a) A person may
14 not install, repair, or maintain equipment without registering as a
15 contractor with the department as required by this subchapter.

16 (b) A contractor shall submit an application for
17 registration and pay appropriate fees to the department. The
18 registration application form may require information concerning
19 the background, experience, or identity of the applicant.

20 (c) A registration expires on the first anniversary of the
21 date of issuance.

22 (d) A person registering as a contractor under this
23 subchapter shall submit to the department an initial report, not
24 later than the 60th day following the application date, containing:

25 (1) the street address of each building or location at
26 which the person performed installation, repair, alteration, or
27 maintenance of equipment for the previous two years; and

1 (2) the name and mailing address of the building
2 owner.

3 (e) After the initial report required by Subsection (d), a
4 contractor registered as required by this subchapter shall submit
5 to the department a quarterly report containing:

6 (1) the street address of each building or location at
7 which the contractor performed installation, repair, alteration,
8 or maintenance of equipment not reported in the contractor's
9 initial report to the department under Subsection (d); and

10 (2) the name and mailing address of the building
11 owner.

12 (f) Installation, repair, alteration, and maintenance
13 standards for contractors must be consistent with ASME Code A17.1,
14 ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

15 Sec. 754.0172. ELEVATOR MECHANIC LICENSE. (a) Except as
16 provided by this section, an individual may not install, repair,
17 wire, test, or maintain equipment without obtaining an elevator
18 mechanic license or an emergency or temporary elevator mechanic
19 license.

20 (b) An individual who is directly supervised by a licensed
21 elevator mechanic on-site in a building or building complex is not
22 required to be licensed under Subsection (a). The commissioner may
23 adopt rules listing the work activities an unlicensed individual
24 may perform on equipment without being under the direct supervision
25 of a licensed elevator mechanic.

26 (c) The commissioner shall adopt rules providing for the
27 issuance of a 30-day emergency license and a 30-day temporary

1 license. The commissioner may waive any license examination
2 requirement for an applicant with a valid license from another
3 state that has a reciprocity agreement with this state. An
4 individual who applies for a temporary or emergency license or a
5 license by reciprocity shall pay an application fee not to exceed
6 \$125 to the department.

7 (d) An applicant for an elevator mechanic license under
8 Subsection (a) must be at least 18 years old. The application must
9 be in a form prescribed by the commissioner and must be verified and
10 accompanied by:

11 (1) a statement of the applicant's practical
12 experience, as described by Subsection (f);

13 (2) the examination fee; and

14 (3) information about any felony conviction or
15 deferred adjudication history of the applicant.

16 (e) Except as provided by this subsection, the commissioner
17 shall issue an elevator mechanic license to an applicant who
18 possesses the required qualifications, passes the appropriate
19 examination, and pays the applicable license fee. An applicant who
20 fails an examination is eligible for reexamination on compliance
21 with Subsection (d).

22 (f) The practical experience must be in the area of
23 installation and repair of equipment.

24 (g) Unless the license has been suspended or revoked, the
25 commissioner shall annually renew an elevator mechanic license on
26 receipt of the applicable fee, the application for renewal, and
27 proof of completion of continuing education requirements. The

1 commissioner shall adopt rules providing for reinstatement of a
2 license on payment of the applicable fee if application for renewal
3 is made not later than the 30th day after the date the license
4 expires.

5 (h) The department may recognize and certify continuing
6 education programs and long-term training programs for elevator
7 mechanics. A program provider shall pay the applicable fee to the
8 department when applying for department approval of a program.

9 (i) The examination must primarily be on the subjects
10 described by Subsection (f). Not later than the 30th day after the
11 date an examination is administered, the commissioner shall notify
12 each examinee of the results of the examination. If an examination
13 is graded or reviewed by a national testing service, the
14 commissioner shall notify examinees of the results of the
15 examination not later than the 14th day after the date the
16 commissioner receives the results from the testing service. If the
17 notice of an examination result is delayed for longer than 90 days
18 after the examination date, the commissioner shall notify the
19 examinee of the reason for the delay before the 90th day.

20 (j) The commissioner shall prepare and administer
21 examinations and continuing education programs for licenses or
22 certify other persons to perform those functions. An elevator
23 mechanic licensed under this subchapter must attend seven hours of
24 required continuing education during each licensing period.

25 Sec. 754.0173. ELEVATOR CAB RENOVATOR LICENSE. (a) Except
26 as provided by this section, an individual may not enter an elevator
27 hoistway to make an evaluation in connection with renovation of an

1 elevator cab or to renovate the interior of the cab without
2 obtaining an elevator cab renovator license.

3 (b) A licensed elevator mechanic or an individual who is
4 directly supervised by a person holding an elevator cab renovator
5 license is not required to be licensed under Subsection (a).

6 (c) The commissioner may waive any license examination
7 requirement for an applicant with a valid license comparable to an
8 elevator mechanic license or elevator cab renovator license from
9 another state that has a reciprocity agreement with this state.

10 (d) An applicant for an elevator cab renovator license under
11 Subsection (a) must be at least 18 years old. The application must
12 be in a form prescribed by the commissioner and must be verified and
13 accompanied by:

14 (1) a statement of the applicant's practical
15 experience, as described by Subsection (f);

16 (2) the examination fee; and

17 (3) information about any felony conviction or
18 deferred adjudication history of the applicant.

19 (e) Except as provided by this subsection, the commissioner
20 shall issue an elevator cab renovator license to an applicant who
21 possesses the required qualifications, passes the appropriate
22 examination, and pays the applicable license fee. An applicant who
23 fails an examination is eligible for reexamination on compliance
24 with Subsection (d).

25 (f) The practical experience must be in the safety aspects
26 of lighting, glass, mirrors, fire retardant materials, weight
27 factors, cab finish-out installation, and performance of any aspect

1 of elevator cab renovation that involves stopping or securing an
2 elevator or entering the hoistway of an elevator for cab renovation
3 purposes.

4 (g) Unless the license has been suspended or revoked, the
5 commissioner shall annually renew an elevator cab renovator license
6 on receipt of the applicable fee and the application for renewal.
7 The commissioner shall adopt rules providing for reinstatement of a
8 license on payment of the applicable fee if application for renewal
9 is made not later than the 30th day after the date the license
10 expires.

11 (h) The examination must primarily be on the subjects
12 described by Subsection (f). Not later than the 30th day after the
13 date an examination is administered, the commissioner shall notify
14 each examinee of the results of the examination. If an examination
15 is graded or reviewed by a national testing service, the
16 commissioner shall notify examinees of the results of the
17 examination not later than the 14th day after the date the
18 commissioner receives the results from the testing service. If the
19 notice of an examination result is delayed for longer than 90 days
20 after the examination date, the commissioner shall notify the
21 examinee of the reason for the delay before the 90th day and shall
22 issue a temporary license, which shall be valid until the
23 examination result is received.

24 (i) The commissioner shall prepare and administer
25 examinations for licenses or certify other persons to perform those
26 functions.

27 Sec. 754.0174. INSPECTION FEE. ~~[(a) A person inspecting an~~

1 ~~elevator, an escalator, or related equipment under this subchapter~~
2 ~~may not charge more than \$65 per elevator cab or per escalator for~~
3 ~~each inspection.~~

4 ~~[(b)]~~ The amount charged for an inspection or the
5 performance of an inspection of equipment under this subchapter may
6 not be contingent on the existence of a maintenance contract
7 between the person performing the inspection and any other person.

8 Sec. 754.018. POWERS OF MUNICIPALITIES. Subject to Section
9 754.014(h), if ~~[If]~~ a municipality operates a program for the
10 installation, maintenance, alteration, inspection, or ~~[and]~~
11 certification of ~~[elevators, escalators, and related]~~ equipment,
12 this subchapter shall not apply to the ~~[elevators, escalators, and~~
13 ~~related]~~ equipment in that municipality, provided that the
14 standards of installation, maintenance, alteration, inspection,
15 and certification are at least equivalent to ~~[no less stringent~~
16 ~~than]~~ those contained in this subchapter.

17 Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) The
18 owner of real property on which ~~[an elevator, an escalator, or~~
19 ~~related]~~ equipment covered by this subchapter is located shall:

20 (1) have the ~~[elevator, escalator, or related]~~
21 equipment inspected annually by a ~~[an ASME-QEI-1]~~ certified
22 inspector ~~[in accordance with the commissioner's rules];~~

23 (2) obtain an inspection report from the inspector
24 evidencing that all ~~[elevators, escalators, and related]~~ equipment
25 in a building on the real property was ~~[were]~~ inspected in
26 accordance with this subchapter and rules adopted under this
27 subchapter;

1 (3) file with the department the ~~[commissioner a copy~~
2 ~~of each]~~ inspection report for each unit of equipment, and all
3 applicable fees, [and a \$20 filing fee for each report, plus \$5 for
4 ~~each elevator, escalator, or related equipment]~~ not later than the
5 60th day after the date on which an inspection is made under this
6 subchapter;

7 (4) display the certificate of compliance or a copy of
8 the certificate:

9 (A) in each ~~[the]~~ elevator mechanical room if the
10 certificate relates to an elevator;

11 (B) in each ~~[the]~~ escalator box if the
12 certificate relates to an escalator; or

13 (C) in a place designated by rule if related to
14 equipment other than an elevator or escalator ~~[the commissioner if~~
15 ~~the certificate relates to related equipment]~~; and

16 (5) display the inspection report at the locations
17 designated in Subdivision (4) until a certificate of compliance is
18 issued ~~[by the commissioner]~~.

19 (b) When an inspection report is filed ~~[with the~~
20 ~~commissioner]~~, the owner shall submit to the department, as
21 applicable ~~[commissioner]~~:

22 (1) verification that any deficiencies in the
23 inspector's report have been remedied or that a bona fide contract
24 to remedy the deficiencies has been entered into; or

25 (2) any application for delay or waiver of an
26 applicable standard.

27 (c) ~~[An inspection must be made not later than 18 months~~

1 ~~after the previous calendar year's inspection. This subsection~~
2 ~~does not affect the requirement that elevators, escalators, or~~
3 ~~related equipment be inspected at least once each calendar year.~~

4 ~~[(d)]~~ For the purpose of determining timely filing under
5 Subsection (a)(3) and Section 754.016(b), an inspection report and
6 filing fees ~~[fee]~~ are considered filed on the earlier of:

7 (1) the date of personal delivery;

8 (2) the date of postmark ~~[mailing]~~ by United States
9 mail if properly addressed to the department; or

10 (3) the date of deposit with a commercial courier
11 service, if properly addressed to the department ~~[commissioner].~~

12 ~~(d) [(e) If the inspection report and fee required by~~
13 ~~Subsection (a)(3) are not timely filed, the commissioner may charge~~
14 ~~the owner of the real property on which the elevator, escalator, or~~
15 ~~related equipment is located an additional \$100 fee for late~~
16 ~~filing.~~

17 ~~[(f) The commissioner may not require that an inspection~~
18 ~~report or certificate of compliance be placed inside or immediately~~
19 ~~outside an elevator cab or escalator or in the lobby or hallways of~~
20 ~~a building.~~

21 ~~[(g)]~~ A fee may not be charged or collected for a
22 certificate of compliance for an institution of higher education as
23 defined in Section 61.003, Education Code.

24 (e) An owner shall report to the department each accident
25 involving equipment not later than 72 hours following the accident.

26 Sec. 754.020. CHIEF ELEVATOR INSPECTOR ~~[DEPOSIT OF FEES].~~
27 The commissioner may appoint a chief elevator inspector to

1 administer the equipment inspection and registration program. The
2 chief elevator inspector:

3 (1) may not have a financial or commercial interest in
4 the manufacture, maintenance, repair, inspection, installation, or
5 sale of equipment; and

6 (2) must possess a QEI-1 certification or obtain the
7 certification within six months after becoming chief inspector.

8 ~~[Fees collected under this subchapter shall be deposited to the~~
9 ~~credit of an account in the general revenue fund that may be used by~~
10 ~~the commissioner only to administer and enforce this subchapter and~~
11 ~~to reimburse expenses of board members provided by this~~
12 ~~subchapter.]~~

13 Sec. 754.021. LIST OF REGISTERED INSPECTORS AND CONTRACTORS
14 AND LICENSED ELEVATOR MECHANICS AND ELEVATOR CAB RENOVATORS [+
15 ~~PERSONNEL~~]. The commissioner shall ~~[may]~~:

16 (1) compile a list of ~~[ASME-QEI-1]~~ certified
17 inspectors and contractors who are registered with the department
18 and elevator mechanics and elevator cab renovators who are licensed
19 by the department ~~[to perform an inspection under this subchapter];~~
20 and

21 (2) employ personnel who are ~~[as]~~ necessary to enforce
22 this subchapter.

23 Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the department
24 ~~[commissioner]~~ learns of a situation of noncompliance under Section
25 754.019, the department ~~[commissioner]~~ shall send notice by
26 certified mail of the noncompliance and the actions required to
27 remedy the noncompliance to the record owner of the real property on

1 which the equipment that is the subject of the noncompliance is
2 located.

3 Sec. 754.023. INVESTIGATION; REGISTRATION AND LICENSE
4 PROCEEDINGS; INJUNCTION; EMERGENCY ORDERS. (a) If there is good
5 cause [~~for the commissioner~~] to believe that [~~an elevator, an~~
6 ~~escalator, or related~~] equipment on real property poses an imminent
7 and significant danger [~~is dangerous~~] or that an accident involving
8 [~~an elevator, an escalator, or related~~] equipment occurred on the
9 property and serious bodily injury or property damage resulted, a
10 department employee [~~the commissioner~~] may enter the property
11 during regular business hours after notice to the owner, operator,
12 or person in charge of the property to inspect the [~~elevator,~~
13 ~~escalator, or related~~] equipment or investigate the danger or
14 accident at no cost to the owner.

15 (b) The department employee [~~commissioner~~] may enter real
16 property during regular business hours after notice to the owner,
17 operator, or person in charge of the property to verify, at no cost
18 to the owner, whether an inspection report or certificate of
19 compliance has been displayed as required under Section 754.019(a).

20 (c) The commissioner may deny, suspend, or revoke a license
21 or [~~the~~] registration under this subchapter and may assess an
22 administrative penalty [~~of any ASME-QEI-1 certified inspector~~]
23 for:

24 (1) obtaining a license or registration [~~with the~~
25 ~~commissioner~~] by fraud or false representation;

26 (2) falsifying a [~~any inspection~~] report [~~submitted to~~
27 ~~the commissioner~~]; or

1 (3) violating this subchapter or a rule adopted under
2 this subchapter.

3 (d) Proceedings for the denial, suspension, or revocation
4 of a license or registration and appeals from those proceedings are
5 governed by Chapter 2001, Government Code (the Administrative
6 Procedure Act).

7 (e) The commissioner is entitled to appropriate injunctive
8 relief to prevent a violation or threatened violation of this
9 subchapter or a rule adopted under this subchapter.

10 (f) [~~(e)~~] The commissioner may bring suit in a district
11 court in Travis County or in the county in which the violation or
12 threatened violation occurs. If requested, the attorney general
13 shall represent the department and its personnel [~~commissioner~~] in
14 the suit.

15 (g) The commissioner may issue an emergency order as
16 necessary to enforce this subchapter if the commissioner determines
17 that an emergency exists requiring immediate action to protect the
18 public health and safety.

19 (h) The commissioner may issue an emergency order with
20 simultaneous notice and without hearing or with the notice and
21 opportunity for hearing practicable under the circumstances.

22 (i) If an emergency order is issued under this section
23 without a hearing, the commissioner shall set the time and place for
24 a hearing to affirm, modify, or set aside the emergency order not
25 later than the 10th day after the date the order was issued.

26 (j) An emergency order may direct a building owner or
27 manager to disconnect power to or lock out equipment if:

1 (1) the department determines imminent and
2 significant danger to passenger safety exists if action is not
3 taken immediately and reasonable effort has been made for voluntary
4 compliance by notification to the building owner or manager of the
5 danger before the issuance of an emergency order; or

6 (2) an annual inspection has not been performed in
7 more than two years and:

8 (A) the department gives the building owner or
9 manager, or the agent of the building owner or manager, 60 days'
10 written notice by certified mail directing the equipment to be
11 inspected according to this subchapter; and

12 (B) after the expiration of the notice period
13 under Paragraph (A), the department gives the building owner or
14 manager, or the agent of the building owner or manager, written
15 notice by certified mail stating that an order to disconnect power
16 or lock out equipment will be made after the seventh day after the
17 date notice is delivered.

18 (k) If an emergency order to disconnect power or lock out
19 equipment is issued, the building owner or manager may have the
20 power reconnected or the equipment unlocked only if:

21 (1) a registered inspector or contractor or a
22 department representative has filed a written form with the
23 department verifying the imminent and significant danger has been
24 removed by repair, replacement, or other means; and

25 (2) the building owner, before the reconnection of
26 power or unlocking of equipment, reimburses the department for all
27 expenses incurred relating to the disconnection of power or

1 lockout.

2 (l) The commissioner or the commissioner's designee may
3 allow delayed payment if the building owner or manager commits in
4 writing to pay the department for the expenses required by
5 Subsection (k) not later than the 10th day after the date power is
6 reconnected or equipment is unlocked.

7 (m) If an emergency order to disconnect power or lock out
8 equipment is issued and the building owner later notifies the
9 department that the imminent and significant danger no longer
10 exists, the commissioner or the commissioner's designee shall,
11 after the requirements of Subsection (k) are satisfied, promptly
12 issue written permission to reconnect power or unlock the equipment
13 and notify the owner.

14 Sec. 754.024. CRIMINAL PENALTY. (a) A person commits an
15 offense if the person receives notice of noncompliance under
16 Section 754.022 and the person has not remedied the noncompliance
17 or entered into a bona fide contract to remedy the noncompliance
18 before the 61st day after the date on which the notice is received.

19 (b) An offense under this section is a Class C misdemeanor.

20 (c) Each day of an offense under Subsection (a) constitutes
21 a separate offense.

22 Sec. 754.025. APPLICATION OF CERTAIN LAW. Chapter 53,
23 Occupations Code, applies to a license or registration under this
24 subchapter.

25 SECTION 2. (a) This Act takes effect September 1, 2003,
26 except that:

27 (1) a contractor is not required to be registered

1 under Section 754.0171, Health and Safety Code, as amended by this
2 Act, before January 1, 2004;

3 (2) an individual is not required to be licensed under
4 Section 754.0172, Health and Safety Code, as added by this Act,
5 before January 1, 2004; and

6 (3) an escalator constructed before September 1, 2003,
7 is not required to comply with step/skirt index requirements
8 imposed under the 2002 American Society of Mechanical Engineers
9 Safety Code for Elevators and Escalators A17.3 before September 1,
10 2009.

11 (b) An applicant for an elevator mechanic license under
12 Section 754.0172, Health and Safety Code, as added by this Act, or
13 an elevator cab renovator license under Section 754.0173, Health
14 and Safety Code, as added by this Act, who has 36 months of
15 practical experience at the time of application and who applies for
16 the license not later than December 31, 2003, is not required to
17 take the required examination. The practical experience must be in
18 the areas described by Section 754.0172 or Section 754.0173, as
19 applicable.

20 (c) A member of the elevator advisory board serving on the
21 effective date of this Act continues to serve until removed by the
22 governor or until the member's successor is appointed by the
23 governor.

1-1 By: Carona S.B. No. 1090
1-2 (In the Senate - Filed March 10, 2003; March 17, 2003, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 March 27, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 1; March 27, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1090 By: Lucio

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to inspection, installation, repair, and maintenance of
1-11 elevators, escalators, chairlifts, people movers, moving
1-12 sidewalks, platform lifts, and related equipment; providing an
1-13 administrative penalty.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subchapter B, Chapter 754, Health and Safety
1-16 Code, is amended to read as follows:

1-17 SUBCHAPTER B. INSPECTION, ~~[AND]~~ CERTIFICATION, AND REGISTRATION

1-18 Sec. 754.011. DEFINITIONS. In this subchapter:

1-19 (1) "Acceptance inspection" means an inspection
1-20 performed at the completion of the initial installation or
1-21 alteration of equipment and in accordance with the applicable ASME
1-22 Code A17.1.

1-23 (2) "Accident" means an event involving equipment that
1-24 results in death or serious bodily injury to a person.

1-25 (3) "Alteration" means a change in or modernization of
1-26 existing equipment. The term does not include maintenance, repair,
1-27 replacement, or a cosmetic change that does not affect the
1-28 operational safety of the equipment or diminish the safety of the
1-29 equipment below the level required by the ASME Code A17.1, ASME Code
1-30 A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, at the time
1-31 of alteration.

1-32 (4) "Annual inspection" means an inspection of
1-33 equipment performed in a 12-month period in accordance with the
1-34 applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or
1-35 ASCE Code 21. The term includes an acceptance inspection performed
1-36 within that period.

1-37 (5) "ASCE Code 21" means the American Society of Civil
1-38 Engineers Code 21 for people movers operated by cables.

1-39 (6) "ASME Code A17.1" means the American Society of
1-40 Mechanical Engineers Safety Code for Elevators and Escalators
1-41 A17.1.

1-42 (7) ~~[(2)]~~ "ASME Code A17.3" means the 2002 American
1-43 Society of Mechanical Engineers Safety Code for Elevators and
1-44 Escalators A17.3.

1-45 (8) "ASME Code A18.1" means the American Society of
1-46 Mechanical Engineers Safety Code for Platform Lifts and Stairway
1-47 Chairlifts A18.1.

1-48 (9) ~~[(3)]~~ "Board" means the elevator advisory board.

1-49 (10) ~~[(4)]~~ "Commission" means the Texas Commission of
1-50 Licensing and Regulation.

1-51 (11) ~~[(5)]~~ "Commissioner" means the commissioner of
1-52 licensing and regulation.

1-53 (12) "Contractor" means a person engaged in the
1-54 installation, repair, or maintenance of equipment. The term does
1-55 not include an employee of a contractor or a person engaged in
1-56 cleaning or any other work performed on equipment that does not
1-57 affect the operational safety of the equipment or diminish the
1-58 safety of the equipment below the level required by the ASME Code
1-59 A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as
1-60 applicable.

1-61 (13) ~~[(6)]~~ "Department" means the Texas Department of
1-62 Licensing and Regulation.

1-63 (14) "Equipment" means an elevator, escalator,

chairlift, platform lift, automated people mover operated by cables, or moving sidewalk, or related equipment.

(15) "Industrial facility" means a facility to which access is primarily limited to employees of the facility.

(16) ~~[(7)]~~ "Qualified historic building or facility" means a building or facility that is:

(A) listed in or eligible for listing in the National Register of Historic Places; or

(B) designated as a Recorded Texas Historic Landmark or State Archeological Landmark.

(17) ~~[(8)]~~ "Related equipment" means:

(A) automatic equipment that is used to move a person in a manner that is similar to that of an elevator, an ~~[ex]~~ escalator, a chairlift, a platform lift, an automated people mover operated by cables, or ~~[and includes]~~ a moving sidewalk; and

(B) hoistways, pits, and machine rooms for equipment.

(18) "Serious bodily injury" means a major impairment to bodily function or serious dysfunction of any bodily organ or part requiring medical attention.

(19) "Unit of equipment" means one elevator, escalator, chairlift, platform lift, automated people mover operated by cables, or moving sidewalk, or related equipment.

Sec. 754.011. EXEMPTION. (a) This subchapter does not apply to ~~[an elevator, escalator, or related]~~ equipment in a private building for a labor union, trade association, private club, or charitable organization that has two or fewer floors.

(b) This subchapter does not apply to an elevator located in a single-family dwelling, except as provided by Section 754.0141.

Sec. 754.012. ELEVATOR ADVISORY BOARD. (a) The elevator advisory board is composed of ~~13~~ ~~[nine]~~ members appointed by the governor ~~[commissioner]~~ as follows:

(1) a representative of the insurance industry or a certified elevator inspector;

(2) a representative of ~~[elevator, escalator, and related]~~ equipment constructors;

(3) a representative of owners or managers of a building ~~[buildings]~~ having fewer than six stories and having ~~[an elevator, an escalator, or related]~~ equipment;

(4) a representative of owners or managers of a building ~~[buildings]~~ having six stories or more and having ~~[an elevator, an escalator, or related]~~ equipment;

(5) a representative of ~~[independent elevator, escalator, and related]~~ equipment maintenance companies;

(6) a representative of ~~[elevator, escalator, and related]~~ equipment manufacturers;

(7) a licensed or registered engineer or architect ~~[representative of professional engineers or architects];~~

(8) ~~five~~ ~~[a]~~ public members ~~[member]~~; and

(9) a public member with a physical disability.

(b) Each board member serves ~~[Board members serve]~~ at the will of the governor and, unless removed by the governor, until the member's successor is appointed by the governor ~~[commissioner]~~.

(c) The governor ~~[commissioner]~~ shall appoint a presiding officer of the board.

(d) The board shall meet at least twice each calendar year.

(e) A board member serves without compensation but is entitled to reimbursement for travel as provided for in the General Appropriations Act ~~[and other necessary expenses incurred in performing duties under this subchapter]~~.

Sec. 754.013. BOARD DUTIES. To protect public safety and to identify and correct potential hazards, the board shall advise the commissioner on:

(1) the adoption of appropriate standards for the installation, alteration, operation, and inspection of ~~[elevators, escalators, and related]~~ equipment;

(2) the status of ~~[elevators, escalators, and related]~~ equipment used by the public in this state; ~~[and]~~

(3) sources of information relating to equipment

safety;

(4) public awareness programs related to elevator safety, including programs for sellers and buyers of single-family dwellings with elevators, chairlifts, or platform lifts; and

(5) any other matter considered relevant by the commissioner.

Sec. 754.014. STANDARDS ADOPTED BY COMMISSIONER. (a) The commissioner shall adopt standards for the installation, maintenance, alteration, operation, and inspection of ~~[elevators, escalators, and related]~~ equipment used by the public in:

(1) buildings owned or operated by the state, a state-owned institution or agency, or a political subdivision of the state; and

(2) buildings that contain ~~[an elevator, an escalator, or related]~~ equipment that is open to the general public, including a hotel, motel, apartment house, boardinghouse, church, office building, shopping center, or other commercial establishment.

(b) Standards adopted by the commissioner may not contain requirements in addition to the requirements in the ASME Code A17.1, ~~[or]~~ ASME Code A17.3, ASME Code A18.1, or ASCE Code 21. The standards must allow alteration of existing equipment if the alteration does not diminish the safety of the equipment below the level required by this subchapter at the time of alteration.

(c) Standards adopted by the commissioner must require ~~[elevators, escalators, and related]~~ equipment to comply with the installation requirements of the ~~[following, whichever is the least restrictive:~~

~~[(1) the] ASME Code A17.1, ASME Code A18.1, or ASCE Code 21 that was in effect and applicable on the date of installation of the [elevators, escalators, and related] equipment[, or~~

~~[(2) an applicable municipal ordinance governing the installation of elevators, escalators, and related equipment that was in effect on the date of installation].~~

(d) Standards adopted by the commissioner must require ~~[elevators, escalators, and related]~~ equipment to comply with the installation requirements of the ~~[1994]~~ ASME Code A17.3 that contains minimum safety standards for all ~~[elevators, escalators, and related]~~ equipment, regardless of the date of installation.

(e) The ~~[On written request, the]~~ commissioner shall grant a delay for compliance with the applicable ASME Code A17.1, ~~[or the 1994]~~ ASME Code A17.3, or ASME Code A18.1 until a specified time if compliance is not readily achievable, as that phrase is defined in the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.), or regulations adopted under that Act. The accumulated total time of all delays may not exceed three years, except as provided by Subsection (f) or as allowed in the discretion of the commissioner.

(f) The ~~[On written request, the]~~ commissioner shall grant a delay until September 1, 2005, for compliance with the requirements for door restrictors or firefighter's service in the ~~[1994]~~ ASME Code A17.3 if those requirements were not included in the ASME Code A17.1 that was in effect on the date of installation ~~[of the elevator, escalator, or related equipment]~~ and the ~~[that]~~ equipment was not subsequently installed ~~[by an owner of the elevator, escalator, or related equipment].~~

(g) The commissioner may grant a waiver of compliance from an applicable code requirement ~~[with the applicable ASME Code A17.1 or the 1994 ASME Code A17.3]~~ if the commissioner finds that:

(1) the building in which the ~~[elevator, escalator, or related]~~ equipment is located is a qualified historic building or facility or the noncompliance is due to structural components of the building; ~~[and]~~

(2) noncompliance will not constitute a significant threat to passenger safety; and

(3) noncompliance, with adequate alternative safeguards, will not constitute a significant threat to worker safety.

(h) The commissioner shall grant a waiver of compliance if

the noncompliance resulted from compliance with a municipal equipment construction code at the time of the original installation and the noncompliance does not pose imminent and significant danger. The commissioner may grant a waiver of compliance with the firefighter's service provisions of the ASME Code A17.1 or the [1994] ASME Code A17.3 in an elevator that exclusively serves a vehicle parking garage in a building that:

- (1) is used only for parking;
- (2) is constructed of noncombustible materials; and
- (3) is not greater than 75 feet in height.

(i) This subchapter does not apply to ~~[an elevator, an escalator, or related]~~ equipment in an industrial facility, or in a grain silo, radio antenna, bridge tower, underground facility, or dam, to which access is limited primarily ~~[principally]~~ to employees of or working in that facility or structure.

(j) ~~[The commissioner may charge a reasonable fee as set by the commission for an application for waiver or delay.]~~ One application for a waiver or delay may contain all requests related to a unit of equipment ~~[particular building]~~. A delay may not be granted indefinitely but must be granted for ~~[to]~~ a specified time not to exceed three years.

(k) For purposes of this section, the date of installation or alteration of equipment is the date that the owner of the real property entered into a contract for the installation or alteration of the ~~[purchase of the elevators, escalators, or related]~~ equipment. If that date cannot be established, the date of installation or alteration is the date of issuance of the municipal building permit under which the ~~[elevators, escalators, or related]~~ equipment was installed or altered ~~[constructed]~~ or, if a municipal building permit was not issued, the date that electrical consumption began for the construction of the building in which the ~~[elevators, escalators, or related]~~ equipment was installed.

Sec. 754.0141. STANDARDS FOR EQUIPMENT IN SINGLE-FAMILY DWELLINGS; REQUIRED INFORMATION. (a) Elevators, chairlifts, or platform lifts installed in a single-family dwelling on or after January 1, 2004, must comply with the ASME Code A17.1 or A18.1, as applicable, and must be inspected by a QEI-1 certified inspector after the installation is complete. The inspector shall provide the dwelling owner a copy of the inspection report.

(b) The commissioner shall, before January 1, 2004, adopt rules containing minimum safety standards that must be used by QEI-1 certified inspectors when inspecting elevators, chairlifts, and platform lifts installed in single-family dwellings.

(c) A municipality may withhold a certificate of occupancy for a dwelling or for the installation of the elevator or chairlift until the owner provides a copy of the QEI-1 inspection report to the municipality.

(d) A contractor is not required to report to the department any information concerning equipment in a single-family dwelling or the contractor's work on the equipment.

(e) On completing installation of equipment in a single-family dwelling, a contractor shall provide the dwelling owner with relevant information, in writing, about use, safety, and maintenance of the equipment, including the advisability of having the equipment periodically and timely inspected by a QEI-1 certified inspector.

(f) An inspection by a QEI-1 certified inspector of equipment in a single-family dwelling may be performed only at the request and with the consent of the owner. The owner of a single-family dwelling is not subject to Section 754.022, 754.023, or 754.024.

Sec. 754.015. RULES. (a) The commissioner by rule shall provide for:

- (1) an annual ~~[the]~~ inspection and certification of the ~~[once each calendar year of elevators, escalators, and related]~~ equipment covered by standards adopted under this subchapter;
- (2) ~~[the]~~ enforcement of those standards;
- (3) registration ~~[the certification]~~ of qualified ~~[persons as]~~ inspectors and contractors ~~[for the purposes of this]~~

~~subchapter~~; ~~[and]~~

(4) the form of ~~[the]~~ inspection documents, contractor reports, ~~[report]~~ and certificates ~~[certificate]~~ of compliance;

(5) notification to building owners, architects, and other building industry professionals regarding the necessity of annually inspecting equipment;

(6) approval of continuing education programs for registered OEI-1 certified inspectors; and

(7) standards of conduct for individuals who are registered under this subchapter.

(b) The commissioner by rule may not ~~[require that]~~:

(1) require inspections of equipment to ~~[inspection]~~ be made more often than every 12 months, except as provided by Subsection (c) ~~[once per year of elevators, escalators, and related equipment]~~;

(2) require persons to post a bond or furnish insurance or to have minimum experience or education as a condition of certification or registration; ~~[and]~~

(3) require inspection reports or certificates of compliance to be placed in locations other than one provided in Section 754.019(a)(4);

(4) require building owners to submit to the department proposed plans for equipment installation or alteration;

(5) prohibit a OEI-1 certified inspector who is registered with the department from inspecting equipment; or

(6) require an inspection report or certificate of compliance to be placed inside or immediately outside an elevator cab or escalator or in the lobby or hallways of a building.

(c) The commissioner by rule may require a reinspection or recertification of equipment if the equipment has been altered and poses a significant threat to passenger or worker safety or if an annual inspection report indicates an existing violation has continued longer than permitted in a delay granted by the commissioner.

(d) The commissioner by rule may charge a fee for:

(1) registering or renewing registration of an inspector, not to exceed \$200;

(2) registering or renewing registration of a contractor, not to exceed \$300;

(3) applying for a certificate of compliance, not to exceed \$15 for each unit of equipment;

(4) filing an inspection report as required by Section 754.019(a)(3), 30 days or more after the date the report is due, not to exceed \$3 for each day the report remains not filed after the date the report is due;

(5) applying for a waiver or delay, not to exceed \$100 for each violation; and

(6) attending a continuing education program sponsored by the department for registered OEI-1 inspectors, not to exceed \$75 ~~[754.019(4)]~~.

Sec. 754.016. INSPECTION DOCUMENTS ~~[REPORT]~~ AND CERTIFICATE OF COMPLIANCE. (a) An inspection report and a certificate of compliance required under this subchapter must cover each unit of ~~[all elevators, escalators, and related]~~ equipment ~~[in a building or structure appurtenant to the building, including a parking facility, that are owned by the same person or persons]~~. There shall be separate ~~[only one]~~ inspection reports ~~[report]~~ and certificates ~~[one certificate]~~ of compliance for each unit of equipment ~~[building]~~.

(b) An inspector shall date and sign an inspection report and shall issue the report to the building owner not later than the 10th calendar day after the date of inspection. ~~[The inspection report shall be on forms designated by the commissioner.]~~

(c) The commissioner shall ~~[date and sign a certificate of compliance and shall]~~ issue a ~~[the]~~ certificate of compliance to the building owner if an application is submitted by the building owner with applicable fees and the application reflects that:

(1) the ~~[. The certificate of compliance shall state]~~

that the elevators, escalators, and related] equipment has ~~have~~ been inspected by a certified inspector;

(2) the inspection report shows the equipment is ~~and found by the inspector to be~~ in compliance with the requirements of this chapter; and

(3) to the extent the report shows any noncompliance that does not pose an imminent and significant danger, the building owner:

(A) acknowledges the noncompliance will be remedied within a reasonable period, not later than six months following the date of the inspection report; or

(B) has been granted a waiver or delay for compliance~~[, except for any delays or waivers granted]~~ by the commissioner ~~[and stated in the certificate]~~.

Sec. 754.017. CERTIFIED INSPECTORS. (a) In order to inspect equipment, an individual must:

(1) be registered ~~[An inspector must register]~~ with the department;

(2) attend educational programs approved by the department;

(3) ~~and~~ be certified as a QEI-1 ~~[an ASME-QEI-1]~~ inspector by an organization accredited by the American Society of Mechanical Engineers; and

(4) pay all applicable fees. ~~[Any certification charges or fees shall be paid by the inspector.]~~

(b) ~~[The commissioner may not by rule prohibit an ASME-QEI-1 certified inspector who is registered with the department from inspecting under this subchapter an elevator, an escalator, or related equipment.]~~ A person assisting a certified inspector and working under the direct, on-site supervision of the inspector is not required to be ~~[ASME-QEI-1]~~ certified.

(c) A registration expires on the first anniversary of the date of issuance.

(d) A certified inspector may not be required to attend more than seven hours of continuing education during each licensing period. ~~[The commissioner may charge a \$15 fee to certified inspectors for registering with the department.]~~

Sec. 754.0171. CONTRACTOR REGISTRATION. (a) A person may not install, repair, or maintain equipment without registering as a contractor with the department as required by this subchapter.

(b) A contractor shall submit an application for registration and pay appropriate fees to the department. The registration application form may require information concerning the background, experience, or identity of the applicant.

(c) A registration expires on the first anniversary of the date of issuance.

(d) A person registering as a contractor under this subchapter shall submit to the department an initial report, not later than the 60th day following the application date, containing:

(1) the street address of each building or location at which the person performed installation, repair, alteration, or maintenance of equipment for the previous two years; and

(2) the name and mailing address of the building owner.

(e) After the initial report required by Subsection (d), a contractor registered as required by this subchapter shall submit to the department a quarterly report containing:

(1) the street address of each building or location at which the contractor performed installation, repair, alteration, or maintenance of equipment not reported in the contractor's initial report to the department under Subsection (d); and

(2) the name and mailing address of the building owner.

(f) Installation, repair, alteration, and maintenance standards for contractors must be consistent with ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

Sec. 754.0172. INSPECTION FEE. ~~[(a) A person inspecting an elevator, an escalator, or related equipment under this subchapter may not charge more than \$65 per elevator cab or per~~

~~escalator for each inspection.~~

~~[(b)]~~ The amount charged for an inspection or the performance of an inspection of equipment under this subchapter may not be contingent on the existence of a maintenance contract between the person performing the inspection and any other person.

Sec. 754.018. POWERS OF MUNICIPALITIES. Subject to Section 754.014(h), if ~~[(f)]~~ a municipality operates a program for the installation, maintenance, alteration, inspection, or ~~[and]~~ certification of ~~[elevators, escalators, and related]~~ equipment, this subchapter shall not apply to the ~~[elevators, escalators, and related]~~ equipment in that municipality, provided that the standards of installation, maintenance, alteration, inspection, and certification are at least equivalent to ~~[no less stringent than]~~ those contained in this subchapter.

Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) The owner of real property on which ~~[an elevator, an escalator, or related]~~ equipment covered by this subchapter is located shall:

(1) have the ~~[elevator, escalator, or related]~~ equipment inspected annually by a ~~[an ASME-QEI-1]~~ certified inspector ~~[in accordance with the commissioner's rules];~~

(2) obtain an inspection report from the inspector evidencing that all ~~[elevators, escalators, and related]~~ equipment in a building on the real property ~~was~~ ~~[were]~~ inspected in accordance with this subchapter and rules adopted under this subchapter;

(3) file with the department the ~~[commissioner a copy of each]~~ inspection report for each unit of equipment, and all applicable fees, ~~[and a \$20 filing fee for each report, plus \$5 for each elevator, escalator, or related equipment]~~ not later than the 60th day after the date on which an inspection is made under this subchapter;

(4) display the certificate of compliance or a copy of the certificate:

(A) in each ~~[the]~~ elevator mechanical room if the certificate relates to an elevator;

(B) in each ~~[the]~~ escalator box if the certificate relates to an escalator; or

(C) in a place designated by rule if related to equipment other than an elevator or escalator ~~[the commissioner if the certificate relates to related equipment];~~ and

(5) display the inspection report at the locations designated in Subdivision (4) until a certificate of compliance is issued ~~[by the commissioner].~~

(b) When an inspection report is filed ~~[with the commissioner]~~, the owner shall submit to the department, as applicable ~~[commissioner]~~:

(1) verification that any deficiencies in the inspector's report have been remedied or that a bona fide contract to remedy the deficiencies has been entered into; or

(2) any application for delay or waiver of an applicable standard.

(c) ~~[An inspection must be made not later than 18 months after the previous calendar year's inspection. This subsection does not affect the requirement that elevators, escalators, or related equipment be inspected at least once each calendar year.]~~

~~[(d)]~~ For the purpose of determining timely filing under Subsection (a)(3) and Section 754.016(b), an inspection report and filing fees ~~[fee]~~ are considered filed on the earlier of:

(1) the date of personal delivery;

(2) the date of postmark ~~[mailing]~~ by United States mail if properly addressed to the department; or

(3) the date of deposit with a commercial courier service, if properly addressed to the department ~~[commissioner].~~

~~[(e)]~~ ~~[If the inspection report and fee required by Subsection (a)(3) are not timely filed, the commissioner may charge the owner of the real property on which the elevator, escalator, or related equipment is located an additional \$100 fee for late filing.]~~

~~[(f)]~~ ~~The commissioner may not require that an inspection~~

~~report or certificate of compliance be placed inside or immediately outside an elevator cab or escalator or in the lobby or hallways of a building.~~

~~[(g)]~~ A fee may not be charged or collected for a certificate of compliance for an institution of higher education as defined in Section 61.003, Education Code.

(e) An owner shall report to the department each accident involving equipment not later than 72 hours following the accident.

Sec. 754.020. CHIEF ELEVATOR INSPECTOR ~~[DEPOSIT OF FEES]~~. The commissioner may appoint a chief elevator inspector to administer the equipment inspection and registration program. The chief elevator inspector:

(1) may not have a financial or commercial interest in the manufacture, maintenance, repair, inspection, installation, or sale of equipment; and

(2) must possess a QEI-1 certification or obtain the certification within six months after becoming chief inspector ~~[Fees collected under this subchapter shall be deposited to the credit of an account in the general revenue fund that may be used by the commissioner only to administer and enforce this subchapter and to reimburse expenses of board members provided by this subchapter].~~

Sec. 754.021. LIST OF REGISTERED INSPECTORS AND CONTRACTORS ~~[PERSONNEL]~~. The commissioner shall ~~[may]~~:

(1) compile a list of ~~[ASME-QEI-1]~~ certified inspectors and contractors who are registered with the department ~~[to perform an inspection under this subchapter]; and~~

(2) employ personnel who are ~~[as]~~ necessary to enforce this subchapter.

Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the department ~~[commissioner]~~ learns of a situation of noncompliance under Section 754.019, the department ~~[commissioner]~~ shall send notice by certified mail of the noncompliance and the actions required to remedy the noncompliance to the record owner of the real property on which the equipment that is the subject of the noncompliance is located.

Sec. 754.023. INVESTIGATION; REGISTRATION ~~[LICENSE]~~ PROCEEDINGS; INJUNCTION; EMERGENCY ORDERS. (a) If there is good cause ~~[for the commissioner]~~ to believe that ~~[an elevator, an escalator, or related]~~ equipment on real property poses an imminent and significant danger ~~[is dangerous]~~ or that an accident involving ~~[an elevator, an escalator, or related]~~ equipment occurred on the property and serious bodily injury or property damage resulted, a department employee ~~[the commissioner]~~ may enter the property during regular business hours after notice to the owner, operator, or person in charge of the property to inspect the ~~[elevator, escalator, or related]~~ equipment or investigate the danger or accident at no cost to the owner.

(b) The department employee ~~[commissioner]~~ may enter real property during regular business hours after notice to the owner, operator, or person in charge of the property to verify, at no cost to the owner, whether an inspection report or certificate of compliance has been displayed as required under Section 754.019(a).

(c) The commissioner may deny, suspend, or revoke a ~~[the]~~ registration under this subchapter and may assess an administrative penalty ~~[of any ASME-QEI-1 certified inspector]~~ for:

(1) obtaining registration ~~[with the commissioner]~~ by fraud or false representation;

(2) falsifying a ~~[any inspection]~~ report ~~[submitted to the commissioner]; or~~

(3) violating this subchapter or a rule adopted under this subchapter.

(d) Proceedings for the denial, suspension, or revocation of a registration and appeals from those proceedings are governed by Chapter 2001, Government Code (the Administrative Procedure Act).

(e) The commissioner is entitled to appropriate injunctive relief to prevent a violation or threatened violation of this subchapter or a rule adopted under this subchapter.

(f) ~~[(e)]~~ The commissioner may bring suit in a district court in Travis County or in the county in which the violation or threatened violation occurs. If requested, the attorney general shall represent the department and its personnel ~~[commissioner]~~ in the suit.

(g) The commissioner may issue an emergency order as necessary to enforce this subchapter if the commissioner determines that an emergency exists requiring immediate action to protect the public health and safety.

(h) The commissioner may issue an emergency order with simultaneous notice and without hearing or with the notice and opportunity for hearing practicable under the circumstances.

(i) If an emergency order is issued under this section without a hearing, the commissioner shall set the time and place for a hearing to affirm, modify, or set aside the emergency order not later than the 10th day after the date the order was issued.

(j) An emergency order may direct a building owner or manager to disconnect power to or lock out equipment if:

(1) the department determines imminent and significant danger to passenger safety exists if action is not taken immediately and reasonable effort has been made for voluntary compliance by notification to the building owner or manager of the danger before the issuance of an emergency order; or

(2) an annual inspection has not been performed in more than two years and:

(A) the department gives the building owner or manager, or the agent of the building owner or manager, 60 days' written notice by certified mail directing the equipment to be inspected according to this subchapter; and

(B) after the expiration of the notice period under Paragraph (A), the department gives the building owner or manager, or the agent of the building owner or manager, written notice by certified mail stating that an order to disconnect power or lock out equipment will be made after the seventh day after the date notice is delivered.

(k) If an emergency order to disconnect power or lock out equipment is issued, the building owner or manager may have the power reconnected or the equipment unlocked only if:

(1) a registered inspector or contractor or a department representative has filed a written form with the department verifying the imminent and significant danger has been removed by repair, replacement, or other means; and

(2) the building owner, before the reconnection of power or unlocking of equipment, reimburses the department for all expenses incurred relating to the disconnection of power or lockout.

(l) The commissioner or the commissioner's designee may allow delayed payment if the building owner or manager commits in writing to pay the department for the expenses required by Subsection (k) not later than the 10th day after the date power is reconnected or equipment is unlocked.

(m) If an emergency order to disconnect power or lock out equipment is issued and the building owner later notifies the department that the imminent and significant danger no longer exists, the commissioner or the commissioner's designee shall, after the requirements of Subsection (k) are satisfied, promptly issue written permission to reconnect power or unlock the equipment and notify the owner.

Sec. 754.024. CRIMINAL PENALTY. (a) A person commits an offense if the person receives notice of noncompliance under Section 754.022 and the person has not remedied the noncompliance or entered into a bona fide contract to remedy the noncompliance before the 61st day after the date on which the notice is received.

(b) An offense under this section is a Class C misdemeanor.

(c) Each day of an offense under Subsection (a) constitutes a separate offense.

Sec. 754.025. APPLICATION OF CERTAIN LAW. Chapter 53, Occupations Code, applies to a registration under this subchapter.

SECTION 2. (a) This Act takes effect September 1, 2003,

(b) A member of the elevator advisory board serving on the effective date of this Act continues to serve until removed by the governor or until the member's successor is appointed by the governor.

* * * * *

FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

(SB) SCR SJR SR HB HCR HJR 1090
By Senator Carona
(Author/Senate Sponsor)
3/27/03
(date)

We, your Committee on BUSINESS AND COMMERCE, to which was referred the attached measure,
have on March 25, 2003, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

☒ do pass as substituted, and be printed
☒ the caption remained the same as original measure
() the caption changed with adoption of the substitute

() do pass as substituted, and be ordered not printed

() and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes () no

A revised fiscal note was requested. ☒ yes () no

An actuarial analysis was requested. () yes () no

Considered by subcommittee. () yes () no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Troy Fraser, Chairman	<input checked="" type="checkbox"/>			
Senator Kip Averitt, Vice-Chairman	<input checked="" type="checkbox"/>			
Senator Ken Armbrister	<input checked="" type="checkbox"/>			
Senator Kim Brimer	<input checked="" type="checkbox"/>			
Senator Craig Estes	<input checked="" type="checkbox"/>			
Senator Mike Jackson		<input checked="" type="checkbox"/>		
Senator Eddie Lucio	<input checked="" type="checkbox"/>			
Senator Leticia Van de Putte	<input checked="" type="checkbox"/>			
Senator Tommy Williams	<input checked="" type="checkbox"/>			
TOTAL VOTES	8	1	0	0

COMMITTEE ACTION

(S260) Considered in public hearing
(S270) Testimony taken

Barbara Henderson
COMMITTEE CLERK

Ty Fraser
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Retain one copy of this form for Committee files

WITNESS LIST

SB 1090

SENATE COMMITTEE REPORT

Business & Commerce

March 25, 2003 - 9:00AM

FOR: Dawson, Sam (Elevator Constructors Union), Austin, TX
Niemann, Larry (Texas Building Owners and Managers Association), Austin, TX

ON: Kuntz, William (Texas Department of Licensing and Regulation), Austin, TX

Registering, but not testifying:

FOR: Goebler, Tim (International Union of Elevator Constructors), Buda, TX

BILL ANALYSIS

Senate Research Center
78R9287 DLF-F

C.S.S.B. 1090
By: Carona
Business & Commerce
3/26/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, the state's authority, through the Texas Department of Licensing and Regulation (TDLR), to regulate and enforce elevator safety and inspection requirements is limited. As proposed, C.S.S.B. 1090 creates a mechanism to regulate the registration of professionals who work on elevators, sets forth inspection requirements, and authorizes the commissioner of licensing and regulation to shut down equipment operation through an emergency order.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of licensing and regulation in SECTION 1 (Sections 745.0141 and 754.015, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the commissioner of licensing and regulation is modified in SECTION 1 (Section 754.015) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 754B, Health and Safety Code, is amended as follows:

SUBCHAPTER B. New heading: INSPECTION, CERTIFICATION, AND REGISTRATION

Sec. 754.011. DEFINITIONS. Defines "acceptance inspection," "accident," "alteration," "annual inspection," "ASCE Code 21," "ASME Code A18.1," "contractor," "equipment," "industrial facility," "serious bodily injury," and "unit of equipment." Redefines "ASME Code A17.3" and "related equipment." Redesignates Subsection (2) as Subsection (7), Subsections (3) - (5) as Subsections (9) - (11), Subsection (6) as Subsection (13), and Subsections (7) - (8) as Subsections (16) - (17).

Sec. 754.0111. EXEMPTION. (a) Creates this subsection from existing text and deletes text exempting an elevator, escalator, or related equipment from this subchapter. Provides that this subchapter does not apply to equipment in a private building owned by, rather than for, certain organizations.

(b) Exempts an elevator in a single-family dwelling from this subchapter, except as provided by Section 754.0141 (Standards For Equipment In Single-family Dwellings; Required Information).

Sec. 754.012. ELEVATOR ADVISORY BOARD. (a) Increases the number of members on the elevator advisory board from nine to 13, and provides that the members be appointed by the governor rather than commissioner of licensing and regulation (commissioner). Provides in the prerequisites for board membership, that a person need only own or manage one rather than multiple buildings. Requires the board to include a licensed or registered engineer or architect, rather than a representative of professional engineers or architects, and increases the number of public members from one to five. Makes conforming changes.

(b) Provides that each board member serves at the will of the governor and, unless removed thereby, until the member's successor is appointed by the governor. Makes a conforming change.

(c) Makes a conforming change.

(d) No change to this subsection.

(e) Provides that a board member is entitled to reimbursement for travel as provided for in the General Appropriations Act. Deletes texts referring to additional expenses that qualify for reimbursement.

Sec. 754.013. BOARD DUTIES. Requires the advisory board to advise the commissioner on certain issues. Makes conforming and nonsubstantive changes.

Sec. 754.014. STANDARDS ADOPTED BY COMMISSIONER. (a) Makes conforming changes.

(b) Prohibits commissioner-adopted standards from containing requirements additional to ASME Code A18.1 and ASCE Code 21, in addition to certain other codes. Requires the standards to allow alteration of existing equipment if it does not diminish the safety level below this subchapter's requirements, at the time of alteration.

(c) Deletes text providing that equipment comply with the least restrictive of certain codes. Includes ASME Code A18.1 and ASCE Code 21 in the list of codes with which the commissioner-adopted standards, which are applicable as well as in effect, must comply in governing equipment installation. Makes a conforming and nonsubstantive change. Deletes existing Subdivision (2).

(d) Deletes the specification that the ASME Code A17.3 referenced is the 1994 code. Makes conforming changes.

(e) Deletes the requirement of a written request for a delay. Makes a conforming change. Prohibits the accumulated delay from exceeding three years, except as provided by Subsection (f) or as allowed by the commissioner's discretion.

(f) Makes conforming and nonsubstantive changes.

(g) Authorizes the commissioner to grant a waiver of compliance from an applicable code requirement, rather than citing specific codes, if the commissioner finds that noncompliance, with adequate alternative safeguards, will not constitute a significant threat to worker safety, in addition to certain other findings. Makes conforming and nonsubstantive changes.

(h) Requires the commissioner to grant a waiver of compliance if the noncompliance resulted from compliance with a municipal equipment construction code at the time of the original installation, and does not pose imminent and significant danger. Makes a conforming change.

(i) Exempts from this subchapter equipment in certain locations to which access is limited primarily, rather than principally, to employees of or working in that facility or structure. Makes a conforming change.

(j) Deletes text authorizing the commissioner to charge a certain fee. Authorizes one application for a waiver or delay to contain all requests related to a unit of equipment, rather than a particular building. Requires a delay be granted for a specified time not to exceed three years.

(k) Provides that for the purposes of this section, the date of installation or alteration of equipment, rather than just installation, is the date that the owner of the real property entered into a contract for the installation or alteration of the equipment, rather than the date of purchase. Makes conforming changes.

Sec. 745.0141. STANDARDS FOR EQUIPMENT IN SINGLE-FAMILY DWELLINGS; REQUIRED INFORMATION. (a) Requires elevators, chairlifts, or platform lifts installed in a single-family dwelling on or after January 1, 2004, to comply with ASME Code A17.1 or A18.1, as applicable, and to be inspected by a QEI-1 certified inspector after installation. Requires the inspector to provide the owner a copy of the inspection report.

(b) Requires the commissioner to adopt rules, before January 1, 2004, with required minimum safety standards to be used by QEI-1 certified inspectors when inspecting certain equipment in single-family dwellings.

(c) Authorizes a municipality to withhold a certificate of occupancy for a dwelling or the installation of certain equipment until the owner provides a copy of the QEI-1 inspection report to the municipality.

(d) Provides that a contractor is not required to report to the Texas Department of Licensing and Regulation (TDLR) any information concerning equipment in a single-family dwelling or the contractor's work on the equipment.

(e) Requires a contractor to provide the dwelling owner with certain information, upon completing installation of equipment in a single-family dwelling.

(f) Authorizes an inspection by a QEI-1 certified inspector of equipment in a single-family dwelling only at the owner's request and consent. Provides that the owner of a single-family dwelling is not subject to Sections 754.022 (Notice of Noncompliance), 754.023 (Investigation; Registration and License Proceedings; Injunction; Emergency Orders) or 754.024 (Criminal Penalty).

Sec. 754.015. RULES. (a) Authorizes the commissioner to provide for, by rule, certain activities.

(b) Prohibits the commissioner, by rule, from requiring or prohibiting certain activities.

(c) Authorizes the commissioner, by rule, to require a reinspection or recertification of equipment if it has been altered and poses a significant threat to passenger or worker safety, or if an annual inspection report indicates an existing violation has continued longer than permitted in a delay granted by the commissioner.

(d) Authorizes the commissioner, by rule, to charge certain fees.

Sec. 754.016. New heading: INSPECTION DOCUMENTS AND CERTIFICATE OF COMPLIANCE. (a) Requires an inspection report and a certificate of compliance required under this subchapter to cover each unit of equipment. Deletes text referring to specific items. Makes a conforming change. Requires separate inspection reports, rather than only one inspection report, and certificates of compliance for each unit of equipment. Makes nonsubstantive changes.

(b) Requires an inspector to issue an inspection report to the building owner not later than the 10th calendar day after the date of inspection. Deletes text referring to commissioner-designated forms.

(c) Requires the commissioner to issue, not date and sign, a certificate of compliance to the building owner if an application is submitted by the building owner with applicable fees and the application reflects certain information.

Sec. 754.017. CERTIFIED INSPECTORS. (a) Requires certain prerequisites to be met in order for an individual to inspect equipment.

(b) Provides that a person assisting a certified inspector and working under the direct, on-site supervision of the inspector is not required to be certified, rather than ASME-QEI-1 certified. Deletes text prohibiting the commissioner from prohibiting an ASME-QEI-1 certified inspector from inspecting certain equipment.

(c) Provides that a registration expires on the first anniversary of the date of issuance.

(d) Prohibits a certified inspector from being required to attend more than seven hours of continuing education during each licensing period. Deletes text referring to a \$15 fee.

Sec. 754.0171. CONTRACTOR REGISTRATION. (a) Prohibits a person from installing, repairing, or maintaining equipment without registering as a contractor with TDLR as required by this chapter.

(b) Requires a contractor to submit an application for registration and pay appropriate fees to TDLR. Authorizes the registration application form to require certain information of the applicant.

(c) Provides that a registration expires on the first anniversary of the date of issuance.

(d) Requires a person registering as a contractor under this subchapter to submit an initial report to TDLR, not later than the 60th day following the application date, containing certain information.

(e) Requires a contractor registered as required by this subchapter to submit to TDLR, after the initial report required by Subsection (d), quarterly reports containing certain information.

(f) Requires installation, repair, alteration, and maintenance standards for contractors to be consistent with certain codes.

Sec. 754.0174. INSPECTION FEE. Prohibits the amount charged for an inspection or the performance of an inspection of equipment under this subchapter from being contingent on the existence of a maintenance contract between the person performing the inspection and any other person. Makes conforming and nonsubstantive changes.

Sec. 754.018. POWERS OF MUNICIPALITIES. Exempts from this subchapter, subject to Section 751.014(h) (Standards Adopted By The Commissioner), equipment in a municipality that operates a program for the installation, maintenance, and alteration, in addition to inspection, or certification of equipment; provided that the standards of installation, maintenance, alteration, inspection, and certification are at least equivalent to, rather than no less stringent than, those contained in this subchapter.

Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) Requires the owner of real property on which equipment is located to fulfill certain duties.

(b) Requires the owner to submit, as applicable, to TDLR, rather than the commissioner, certain information upon filing an inspection report.

(c) Deletes text referring to an inspection timeline. Provides that for the purpose of determining timely filing under Subsection (a)(3) and Section 754.016(b) (Inspection Documents and Certificate of Compliance), an inspection report and filing fees are considered filed on the earlier of certain dates. Makes conforming and nonsubstantive changes.

(d) Deletes text referring to late fees and posting certificates of compliance. Makes nonsubstantive changes.

(e) Requires an owner to report to TDLR each accident involving equipment, not later than 72 hours following the accident.

Sec. 754.020. New heading: CHIEF ELEVATOR INSPECTOR. Authorizes the commissioner to appoint a chief elevator inspector, subject to certain prerequisites, to administer the equipment inspection and registration program.

Sec. 754.021. New heading: LIST OF REGISTERED INSPECTORS AND CONTRACTORS. Requires the commissioner to perform certain duties.

Sec. 754.022. NOTICE OF NONCOMPLIANCE. Redesignates the duties related to noncompliance by real property owners from the commissioner to TDLR.

Sec. 754.023. New heading: INVESTIGATION; REGISTRATION PROCEEDINGS; INJUNCTION; EMERGENCY ORDERS. (a) Authorizes a TDLR employee to enter real property during regular business hours after notice to certain people to inspect equipment or investigate the danger or accident at no cost to the owner, if there is good cause to believe that equipment on real property poses an imminent threat, rather than is dangerous. Makes conforming changes.

(b) Makes a conforming change.

(c) Authorizes the commissioner to deny, suspend, or revoke a registration, under this subchapter and assess an administrative penalty for certain activities. Deletes text referring to an ASME-QEI-1 certified inspector. Makes conforming changes.

(d) Provides that proceedings for certain registration issues are governed by Chapter 2001, Government Code (Administrative Procedure Act).

(e) Creates this subsection from existing text.

(f) Requires the attorney general to represent TDLR and its personnel, rather than the commissioner. Makes a nonsubstantive change.

(g) Authorizes the commissioner to issue an emergency order, as necessary, to enforce this subchapter if the commissioner determines that an emergency exists requiring immediate action to protect the public health and safety.

(h) Authorizes the commissioner to issue an emergency order with simultaneous notice and without hearing or with the notice and opportunity for hearing as practicable.

(i) Requires the commissioner to set the time and place for a hearing to take certain actions on the emergency order, if an emergency order is issued under this section, not later than the 10th day after the order was issued.

(j) Authorizes an emergency order to direct a building owner or manager to disconnect power to or lock out equipment under certain circumstances.

(k) Authorizes the building owner or manager to have the power reconnected or the equipment unlocked only under certain circumstances, if an emergency order to disconnect power to or lock out equipment is issued.

(l) Authorizes the commissioner, or the designee thereof, to allow delayed payment if the building owner or manager commits, in writing, to pay TDLR for the expenses required by Subsection (k) not later than the 10th day after the date

power is reconnected or equipment is unlocked.

(m) Requires the commissioner, or the designee thereof, if an emergency order to disconnect power to or lock out equipment is issued and the building owner later notifies TDLR that the imminent and significant danger no longer exists, to promptly issue written permission to reconnect power or unlock the equipment and notify the owner, after the requirements of Subsection (k) are satisfied.

Sec. 754.024. CRIMINAL PENALTY. No changes in this section

Sec. 754.025. APPLICATION OF CERTAIN LAW. Provides that Chapter 53, Occupations Code (Consequences of Criminal Conviction), applies to a registration under this subchapter.

SECTION 2. (a) Effective date: September 1, 2003

(1) Make application of this Act prospective to January 1, 2004.

(2) Makes application of this Act prospective to September 1, 2009, for an escalator constructed before September 1, 2003.

(b) Makes application of this Act prospective to a member of the elevator advisory board's removal by the governor or until the member's successor is appointed by the governor.

SUMMARY OF COMMITTEE CHANGES

Differs from the original in SECTION 1 by deleting references to licensing or licensed elevator mechanics and licensed elevator cab renovators, including proposed Sections 754.0172 (Elevator Mechanic License) and 754.0173 (Elevator Cab Renovator License), and redesignating subsections and subdivisions to conform to the removal of licensing provisions.

Differs from the original in SECTION 1 by removing proposed language in Section 754.0111 (Exemption) exempting equipment in a private building owned by certain entities with two or fewer floors, thus returning the section to the original wording.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 26, 2003

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1090 by Carona (relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The Texas Department of Licensing and Regulation would be required to register elevator contractors and approve continuing education courses, and would require contractors to provide reports on serviced equipment. The agency estimates a population of approximately 45 individuals. It is assumed the agency can re-allocate its current resources in order to absorb any costs associated with the bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: JK, JRO, RT, RB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 25, 2003

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1090 by Carona (Relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1090, As Introduced: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2003
2004	\$59,400	(\$59,400)	1.0
2005	\$46,611	(\$46,611)	1.0
2006	\$46,611	(\$46,611)	1.0
2007	\$46,611	(\$46,611)	1.0
2008	\$46,611	(\$46,611)	1.0

Fiscal Analysis

The bill would authorize the Texas Department of Licensing and Regulation to register contractors and license elevator mechanics and cab renovators. It would authorize the agency to write rules that establish standards, set fees for registrants and licensees, and issue certificates of compliance for equipment. It would also require the agency to approve continuing education courses.

The bill would take effect September 1, 2003.

Methodology

The Texas Department of Licensing and Regulation expects a licensee population of approximately 1,275. The agency would need a total of one additional FTE to administer the program. This total would include one-half Administrative Technician III FTE (\$16,633 for salary and benefits) to review and process applications for licensure, registration, and certification of compliance and to review work reports submitted by contractors and compare addresses to an existing database. Also included would be one-quarter Investigator IV FTE (\$10,579 for salary and benefits) to investigate complaints and one-quarter Legal Assistant IV FTE (\$9,964 for salary and benefits) to perform preliminary reviews of incoming complaints and to prepare legal documents. It is assumed the agency can absorb additional administrative functions such as processing mail and reviewing applications with existing staff.

The agency also indicates it would require \$2,100 in professional services to image an additional 35,000 documents, \$1,600 for the travel of four additional advisory board members, and \$1,235 for additional background checks. For travel, equipment, and other operating expenses, the agency would need \$17,289 in fiscal year 2004 and \$7,500 in each subsequent year.

It is assumed the agency would raise fees from vehicle repossession industry licensees sufficient to cover all costs associated with the program.

Technology

The Texas Department of Licensing and Regulation would require \$2,300 for a computer and related equipment for an additional FTE. The agency would also require \$5,000 to purchase an additional disk drive for storage of documents in the imaging system.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 452 Department of Licensing and Regulation
LBB Staff: JK, JRO, RT, RB

By: CARONA

S.B. No. 1090

Substitute the following for S.B. No. 1090:

By: Lucio

C.S. S.B. No. 1090

A BILL TO BE ENTITLED

AN ACT

relating to inspection, installation, repair, and maintenance of
elevators, escalators, chairlifts, people movers, moving
sidewalks, platform lifts, and related equipment; providing an
administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 754, Health and Safety
Code, is amended to read as follows:

SUBCHAPTER B. INSPECTION, ~~[AND]~~ CERTIFICATION, AND REGISTRATION

Sec. 754.011. DEFINITIONS. In this subchapter:

(1) "Acceptance inspection" means an inspection
performed at the completion of the initial installation or
alteration of equipment and in accordance with the applicable ASME
Code A17.1.

(2) "Accident" means an event involving equipment that
results in death or serious bodily injury to a person.

(3) "Alteration" means a change in or modernization of
existing equipment. The term does not include maintenance, repair,
replacement, or a cosmetic change that does not affect the
operational safety of the equipment or diminish the safety of the
equipment below the level required by the ASME Code A17.1, ASME Code
A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, at the time
of alteration.

(4) "Annual inspection" means an inspection of

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1 equipment performed in a 12-month period in accordance with the
2 applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or
3 ASCE Code 21. The term includes an acceptance inspection performed
4 within that period.

5 (5) "ASCE Code 21" means the American Society of Civil
6 Engineers Code 21 for people movers operated by cables.

7 (6) "ASME Code A17.1" means the American Society of
8 Mechanical Engineers Safety Code for Elevators and Escalators
9 A17.1.

10 (7) [(2)] "ASME Code A17.3" means the 2002 American
11 Society of Mechanical Engineers Safety Code for Elevators and
12 Escalators A17.3.

13 (8) "ASME Code A18.1" means the American Society of
14 Mechanical Engineers Safety Code for Platform Lifts and Stairway
15 Chairlifts A18.1.

16 (9) [(3)] "Board" means the elevator advisory board.

17 (10) [(4)] "Commission" means the Texas Commission of
18 Licensing and Regulation.

19 (11) [(5)] "Commissioner" means the commissioner of
20 licensing and regulation.

21 (12) "Contractor" means a person engaged in the
22 installation, repair, or maintenance of equipment. The term does
23 not include an employee of a contractor or a person engaged in
24 cleaning or any other work performed on equipment that does not
25 affect the operational safety of the equipment or diminish the
26 safety of the equipment below the level required by the ASME Code
27 A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as

1 applicable.

2 (13) ~~[(6)]~~ "Department" means the Texas Department of
3 Licensing and Regulation.

4 (14) "Equipment" means an elevator, escalator,
5 chairlift, platform lift, automated people mover operated by
6 cables, or moving sidewalk, or related equipment.

7 (15) "Industrial facility" means a facility to which
8 access is primarily limited to employees of the facility.

9 (16) ~~[(7)]~~ "Qualified historic building or facility"
10 means a building or facility that is:

11 (A) listed in or eligible for listing in the
12 National Register of Historic Places; or

13 (B) designated as a Recorded Texas Historic
14 Landmark or State Archeological Landmark.

15 (17) ~~[(8)]~~ "Related equipment" means:

16 (A) automatic equipment that is used to move a
17 person in a manner that is similar to that of an elevator, an ~~[or]~~
18 escalator, a chairlift, a platform lift, an automated people mover
19 operated by cables, or ~~[and includes]~~ a moving sidewalk; and

20 (B) hoistways, pits, and machine rooms for
21 equipment.

22 (18) "Serious bodily injury" means a major impairment
23 to bodily function or serious dysfunction of any bodily organ or
24 part requiring medical attention.

25 (19) "Unit of equipment" means one elevator,
26 escalator, chairlift, platform lift, automated people mover
27 operated by cables, or moving sidewalk, or related equipment.

1 Sec. 754.0111. EXEMPTION. (a) This subchapter does not
2 apply to ~~[an elevator, escalator, or related]~~ equipment in a
3 private building for a labor union, trade association, private
4 club, or charitable organization that has two or fewer floors.

5 (b) This subchapter does not apply to an elevator located in
6 a single-family dwelling, except as provided by Section 754.0141.

7 Sec. 754.012. ELEVATOR ADVISORY BOARD. (a) The elevator
8 advisory board is composed of 13 ~~[nine]~~ members appointed by the
9 governor ~~[commissioner]~~ as follows:

10 (1) a representative of the insurance industry or a
11 certified elevator inspector;

12 (2) a representative of ~~[elevator, escalator, and~~
13 ~~related]~~ equipment constructors;

14 (3) a representative of owners or managers of a
15 building ~~[buildings]~~ having fewer than six stories and having ~~[an~~
16 ~~elevator, an escalator, or related]~~ equipment;

17 (4) a representative of owners or managers of a
18 building ~~[buildings]~~ having six stories or more and having ~~[an~~
19 ~~elevator, an escalator, or related]~~ equipment;

20 (5) a representative of ~~[independent elevator,~~
21 ~~escalator, and related]~~ equipment maintenance companies;

22 (6) a representative of ~~[elevator, escalator, and~~
23 ~~related]~~ equipment manufacturers;

24 (7) a licensed or registered engineer or architect
25 ~~[representative of professional engineers or architects];~~

26 (8) five ~~[a]~~ public members ~~[member]~~; and

27 (9) a public member with a physical disability.

1 (b) Each board member serves ~~[Board members serve]~~ at the
2 will of the governor and, unless removed by the governor, until the
3 member's successor is appointed by the governor ~~[commissioner]~~.

4 (c) The governor ~~[commissioner]~~ shall appoint a presiding
5 officer of the board.

6 (d) The board shall meet at least twice each calendar year.

7 (e) A board member serves without compensation but is
8 entitled to reimbursement for travel as provided for in the General
9 Appropriations Act ~~[and other necessary expenses incurred in~~
10 ~~performing duties under this subchapter]~~.

11 Sec. 754.013. BOARD DUTIES. To protect public safety and to
12 identify and correct potential hazards, the board shall advise the
13 commissioner on:

14 (1) the adoption of appropriate standards for the
15 installation, alteration, operation, and inspection of ~~[elevators,~~
16 ~~escalators, and related]~~ equipment;

17 (2) the status of ~~[elevators, escalators, and related]~~
18 equipment used by the public in this state; ~~[and]~~

19 (3) sources of information relating to equipment
20 safety;

21 (4) public awareness programs related to elevator
22 safety, including programs for sellers and buyers of single-family
23 dwelling with elevators, chairlifts, or platform lifts; and

24 (5) any other matter considered relevant by the
25 commissioner.

26 Sec. 754.014. STANDARDS ADOPTED BY COMMISSIONER. (a) The
27 commissioner shall adopt standards for the installation,

1 maintenance, alteration, operation, and inspection of [~~elevators,~~
2 ~~escalators, and related~~] equipment used by the public in:

3 (1) buildings owned or operated by the state, a
4 state-owned institution or agency, or a political subdivision of
5 the state; and

6 (2) buildings that contain [~~an elevator, an escalator,~~
7 ~~or related~~] equipment that is open to the general public, including
8 a hotel, motel, apartment house, boardinghouse, church, office
9 building, shopping center, or other commercial establishment.

10 (b) Standards adopted by the commissioner may not contain
11 requirements in addition to the requirements in the ASME Code
12 A17.1, [~~or~~] ASME Code A17.3, ASME Code A18.1, or ASCE Code 21. The
13 standards must allow alteration of existing equipment if the
14 alteration does not diminish the safety of the equipment below the
15 level required by this subchapter at the time of alteration.

16 (c) Standards adopted by the commissioner must require
17 [~~elevators, escalators, and related~~] equipment to comply with the
18 installation requirements of the [~~following, whichever is the least~~
19 ~~restrictive.~~

20 [~~(1) the~~] ASME Code A17.1, ASME Code A18.1, or ASCE
21 Code 21 that was in effect and applicable on the date of
22 installation of the [~~elevators, escalators, and related~~]
23 equipment[~~, or~~

24 [~~(2) an applicable municipal ordinance governing the~~
25 ~~installation of elevators, escalators, and related equipment that~~
26 ~~was in effect on the date of installation]~~.

27 (d) Standards adopted by the commissioner must require

1 ~~[elevators, escalators, and related]~~ equipment to comply with the
2 installation requirements of the ~~[1994]~~ ASME Code A17.3 that
3 contains minimum safety standards for all ~~[elevators, escalators,~~
4 ~~and related]~~ equipment, regardless of the date of installation.

5 (e) The ~~[On written request, the]~~ commissioner shall grant a
6 delay for compliance with the applicable ASME Code A17.1, ~~[or the~~
7 ~~1994]~~ ASME Code A17.3, or ASME Code A18.1 until a specified time if
8 compliance is not readily achievable, as that phrase is defined in
9 the Americans with Disabilities Act (42 U.S.C. Section 12101 et
10 seq.), or regulations adopted under that Act. The accumulated
11 total time of all delays may not exceed three years, except as
12 provided by Subsection (f) or as allowed in the discretion of the
13 commissioner.

14 (f) The ~~[On written request, the]~~ commissioner shall grant a
15 delay until September 1, 2005, for compliance with the requirements
16 for door restrictors or firefighter's service in the ~~[1994]~~ ASME
17 Code A17.3 if those requirements were not included in the ASME Code
18 A17.1 that was in effect on the date of installation ~~[of the~~
19 ~~elevator, escalator, or related equipment]~~ and the ~~[that]~~ equipment
20 was not subsequently installed ~~[by an owner of the elevator,~~
21 ~~escalator, or related equipment]~~.

22 (g) The commissioner may grant a waiver of compliance from
23 an applicable code requirement ~~[with the applicable ASME Code A17.1~~
24 ~~or the 1994 ASME Code A17.3]~~ if the commissioner finds that:

25 (1) the building in which the ~~[elevator, escalator, or~~
26 ~~related]~~ equipment is located is a qualified historic building or
27 facility or the noncompliance is due to structural components of

1 the building; ~~and~~

2 (2) noncompliance will not constitute a significant
3 threat to passenger safety; and

4 (3) noncompliance, with adequate alternative
5 safeguards, will not constitute a significant threat to worker
6 safety.

7 (h) The commissioner shall grant a waiver of compliance if
8 the noncompliance resulted from compliance with a municipal
9 equipment construction code at the time of the original
10 installation and the noncompliance does not pose imminent and
11 significant danger. The commissioner may grant a waiver of
12 compliance with the firefighter's service provisions of the ASME
13 Code A17.1 or the [1994] ASME Code A17.3 in an elevator that
14 exclusively serves a vehicle parking garage in a building that:

15 (1) is used only for parking;

16 (2) is constructed of noncombustible materials; and

17 (3) is not greater than 75 feet in height.

18 (i) This subchapter does not apply to ~~[an elevator, an~~
19 ~~escalator, or related]~~ equipment in an industrial facility, or in a
20 grain silo, radio antenna, bridge tower, underground facility, or
21 dam, to which access is limited primarily ~~[principally]~~ to
22 employees of or working in that facility or structure.

23 (j) ~~[The commissioner may charge a reasonable fee as set by~~
24 ~~the commission for an application for waiver or delay.]~~ One
25 application for a waiver or delay may contain all requests related
26 to a unit of equipment ~~[particular building]~~. A delay may not be
27 granted indefinitely but must be granted for ~~[to]~~ a specified time

1 not to exceed three years.

2 (k) For purposes of this section, the date of installation
3 or alteration of equipment is the date that the owner of the real
4 property entered into a contract for the installation or alteration
5 of the [~~purchase of the elevators, escalators, or related~~]
6 equipment. If that date cannot be established, the date of
7 installation or alteration is the date of issuance of the municipal
8 building permit under which the [~~elevators, escalators, or related~~]
9 equipment was installed or altered [~~constructed~~] or, if a municipal
10 building permit was not issued, the date that electrical
11 consumption began for the construction of the building in which the
12 [~~elevators, escalators, or related~~] equipment was installed.

13 Sec. 745.0141. STANDARDS FOR EQUIPMENT IN SINGLE-FAMILY
14 DWELLINGS; REQUIRED INFORMATION. (a) Elevators, chairlifts, or
15 platform lifts installed in a single-family dwelling on or after
16 January 1, 2004, must comply with the ASME Code A17.1 or A18.1, as
17 applicable, and must be inspected by a QEI-1 certified inspector
18 after the installation is complete. The inspector shall provide
19 the dwelling owner a copy of the inspection report.

20 (b) The commissioner shall, before January 1, 2004, adopt
21 rules containing minimum safety standards that must be used by
22 QEI-1 certified inspectors when inspecting elevators, chairlifts,
23 and platform lifts installed in single-family dwellings.

24 (c) A municipality may withhold a certificate of occupancy
25 for a dwelling or for the installation of the elevator or chairlift
26 until the owner provides a copy of the QEI-1 inspection report to
27 the municipality.

1 (d) A contractor is not required to report to the department
2 any information concerning equipment in a single-family dwelling or
3 the contractor's work on the equipment.

4 (e) On completing installation of equipment in a
5 single-family dwelling, a contractor shall provide the dwelling
6 owner with relevant information, in writing, about use, safety, and
7 maintenance of the equipment, including the advisability of having
8 the equipment periodically and timely inspected by a QEI-1
9 certified inspector.

10 (f) An inspection by a QEI-1 certified inspector of
11 equipment in a single-family dwelling may be performed only at the
12 request and with the consent of the owner. The owner of a
13 single-family dwelling is not subject to Section 754.022, 754.023,
14 or 754.024.

15 Sec. 754.015. RULES. (a) The commissioner by rule shall
16 provide for;

17 (1) an annual ~~[the]~~ inspection and certification of
18 the ~~[once each calendar year of elevators, escalators, and related]~~
19 equipment covered by standards adopted under this subchapter;

20 (2) ~~[the]~~ enforcement of those standards;

21 (3) registration ~~[the certification]~~ of qualified
22 ~~[persons as]~~ inspectors and contractors ~~[for the purposes of this~~
23 ~~subchapter]; [and]~~

24 (4) the form of ~~[the]~~ inspection documents, contractor
25 reports, [report] and certificates ~~[certificate]~~ of compliance;

26 (5) notification to building owners, architects, and
27 other building industry professionals regarding the necessity of

1 annually inspecting equipment;

2 (6) approval of continuing education programs for
3 registered QEI-1 certified inspectors; and

4 (7) standards of conduct for individuals who are
5 registered under this subchapter.

6 (b) The commissioner by rule may not ~~[require that]~~:

7 (1) require inspections of equipment to [inspection]
8 be made more often than every 12 months, except as provided by
9 Subsection (c) [once per year of elevators, escalators, and related
10 equipment];

11 (2) require persons to post a bond or furnish
12 insurance or to have minimum experience or education as a condition
13 of certification or registration; [and]

14 (3) require inspection reports or certificates of
15 compliance to be placed in locations other than one provided in
16 Section 754.019(a)(4);

17 (4) require building owners to submit to the
18 department proposed plans for equipment installation or
19 alteration;

20 (5) prohibit a QEI-1 certified inspector who is
21 registered with the department from inspecting equipment; or

22 (6) require an inspection report or certificate of
23 compliance to be placed inside or immediately outside an elevator
24 cab or escalator or in the lobby or hallways of a building.

25 (c) The commissioner by rule may require a reinspection or
26 recertification of equipment if the equipment has been altered and
27 poses a significant threat to passenger or worker safety or if an

1 annual inspection report indicates an existing violation has
2 continued longer than permitted in a delay granted by the
3 commissioner.

4 (d) The commissioner by rule may charge a fee for:

5 (1) registering or renewing registration of an
6 inspector, not to exceed \$200;

7 (2) registering or renewing registration of a
8 contractor, not to exceed \$300;

9 (3) applying for a certificate of compliance, not to
10 exceed \$15 for each unit of equipment;

11 (4) filing an inspection report as required by Section
12 754.019(a)(3), 30 days or more after the date the report is due, not
13 to exceed \$3 for each day the report remains not filed after the
14 date the report is due;

15 (5) applying for a waiver or delay, not to exceed \$100
16 for each violation; and

17 (6) attending a continuing education program
18 sponsored by the department for registered QEI-1 inspectors, not to
19 exceed \$75 [754.019(4)].

20 Sec. 754.016. INSPECTION DOCUMENTS ~~[REPORT]~~ AND
21 CERTIFICATE OF COMPLIANCE. (a) An inspection report and a
22 certificate of compliance required under this subchapter must cover
23 each unit of ~~[all elevators, escalators, and related]~~ equipment ~~[in~~
24 ~~a building or structure appurtenant to the building, including a~~
25 ~~parking facility, that are owned by the same person or persons]~~.
26 There shall be separate ~~[only one]~~ inspection reports ~~[report]~~ and
27 certificates ~~[one certificate]~~ of compliance for each unit of

1 equipment [building].

2 (b) An inspector shall date and sign an inspection report
3 and shall issue the report to the building owner not later than the
4 10th calendar day after the date of inspection. [~~The inspection~~
5 ~~report shall be on forms designated by the commissioner.~~]

6 (c) The commissioner shall [~~date and sign a certificate of~~
7 ~~compliance and shall~~] issue a [~~the~~] certificate of compliance to
8 the building owner if an application is submitted by the building
9 owner with applicable fees and the application reflects that:

10 (1) the [~~The certificate of compliance shall state~~
11 ~~that the elevators, escalators, and related~~] equipment has [~~have~~]
12 been inspected by a certified inspector;

13 (2) the inspection report shows the equipment is [~~and~~
14 ~~found by the inspector to be~~] in compliance with the requirements of
15 this chapter; and

16 (3) to the extent the report shows any noncompliance
17 that does not pose an imminent and significant danger, the building
18 owner:

19 (A) acknowledges the noncompliance will be
20 remedied within a reasonable period, not later than six months
21 following the date of the inspection report; or

22 (B) has been granted a waiver or delay for
23 compliance by the commissioner [~~, except for any delays or waivers~~
24 ~~granted by the commissioner. [and stated in the certificate].~~]

25 Sec. 754.017. CERTIFIED INSPECTORS. (a) In order to
26 inspect equipment, an individual must:

27 (1) be registered [~~An inspector must register~~] with

1 the department;

2 (2) attend educational programs approved by the
3 department;

4 (3) [and] be certified as a QEI-1 [an ASME-QEI-1]
5 inspector by an organization accredited by the American Society of
6 Mechanical Engineers; and

7 (4) pay all applicable fees. [~~Any certification~~
8 ~~charges or fees shall be paid by the inspector.~~]

9 (b) [~~The commissioner may not by rule prohibit an ASME-QEI-1~~
10 ~~certified inspector who is registered with the department from~~
11 ~~inspecting under this subchapter an elevator, an escalator, or~~
12 ~~related equipment.~~] A person assisting a certified inspector and
13 working under the direct, on-site supervision of the inspector is
14 not required to be [ASME-QEI-1] certified.

15 (c) A registration expires on the first anniversary of the
16 date of issuance.

17 (d) A certified inspector may not be required to attend more
18 than seven hours of continuing education during each licensing
19 period. [~~The commissioner may charge a \$15 fee to certified~~
20 ~~inspectors for registering with the department.~~]

21 Sec. 754.0171. CONTRACTOR REGISTRATION. (a) A person may
22 not install, repair, or maintain equipment without registering as a
23 contractor with the department as required by this subchapter.

24 (b) A contractor shall submit an application for
25 registration and pay appropriate fees to the department. The
26 registration application form may require information concerning
27 the background, experience, or identity of the applicant.

1 (c) A registration expires on the first anniversary of the
2 date of issuance.

3 (d) A person registering as a contractor under this
4 subchapter shall submit to the department an initial report, not
5 later than the 60th day following the application date, containing:

6 (1) the street address of each building or location at
7 which the person performed installation, repair, alteration, or
8 maintenance of equipment for the previous two years; and

9 (2) the name and mailing address of the building
10 owner.

11 (e) After the initial report required by Subsection (d), a
12 contractor registered as required by this subchapter shall submit
13 to the department a quarterly report containing:

14 (1) the street address of each building or location at
15 which the contractor performed installation, repair, alteration,
16 or maintenance of equipment not reported in the contractor's
17 initial report to the department under Subsection (d); and

18 (2) the name and mailing address of the building
19 owner.

20 (f) Installation, repair, alteration, and maintenance
21 standards for contractors must be consistent with ASME Code A17.1,
22 ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

23 ²
23 Sec. 754.0174. INSPECTION FEE. [(a) A person inspecting an
24 elevator, an escalator, or related equipment under this subchapter
25 may not charge more than \$65 per elevator cab or per escalator for
26 each inspection.

27 ~~[(b)]~~ The amount charged for an inspection or the

1 performance of an inspection of equipment under this subchapter may
2 not be contingent on the existence of a maintenance contract
3 between the person performing the inspection and any other person.

4 Sec. 754.018. POWERS OF MUNICIPALITIES. Subject to Section
5 754.014(h), if ~~[If]~~ a municipality operates a program for the
6 installation, maintenance, alteration, inspection, or ~~[and]~~
7 certification of ~~[elevators, escalators, and related]~~ equipment,
8 this subchapter shall not apply to the ~~[elevators, escalators, and~~
9 ~~related]~~ equipment in that municipality, provided that the
10 standards of installation, maintenance, alteration, inspection,
11 and certification are at least equivalent to ~~[no less stringent~~
12 ~~than]~~ those contained in this subchapter.

13 Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) The
14 owner of real property on which ~~[an elevator, an escalator, or~~
15 ~~related]~~ equipment covered by this subchapter is located shall:

16 (1) have the ~~[elevator, escalator, or related]~~
17 equipment inspected annually by a ~~[an ASME-QEI-1]~~ certified
18 inspector ~~[in accordance with the commissioner's rules];~~

19 (2) obtain an inspection report from the inspector
20 evidencing that all ~~[elevators, escalators, and related]~~ equipment
21 in a building on the real property was ~~[were]~~ inspected in
22 accordance with this subchapter and rules adopted under this
23 subchapter;

24 (3) file with the department the ~~[commissioner a copy~~
25 ~~of each]~~ inspection report for each unit of equipment, and all
26 applicable fees, ~~[and a \$20 filing fee for each report, plus \$5 for~~
27 ~~each elevator, escalator, or related equipment]~~ not later than the

1 60th day after the date on which an inspection is made under this
2 subchapter;

3 (4) display the certificate of compliance or a copy of
4 the certificate:

5 (A) in each ~~[the]~~ elevator mechanical room if the
6 certificate relates to an elevator;

7 (B) in each ~~[the]~~ escalator box if the
8 certificate relates to an escalator; or

9 (C) in a place designated by rule if related to
10 equipment other than an elevator or escalator ~~[the commissioner if~~
11 ~~the certificate relates to related equipment]~~; and

12 (5) display the inspection report at the locations
13 designated in Subdivision (4) until a certificate of compliance is
14 issued ~~[by the commissioner]~~.

15 (b) When an inspection report is filed ~~[with the~~
16 ~~commissioner]~~, the owner shall submit to the department, as
17 applicable ~~[commissioner]~~:

18 (1) verification that any deficiencies in the
19 inspector's report have been remedied or that a bona fide contract
20 to remedy the deficiencies has been entered into; or

21 (2) any application for delay or waiver of an
22 applicable standard.

23 (c) ~~[An inspection must be made not later than 18 months~~
24 ~~after the previous calendar year's inspection. This subsection~~
25 ~~does not affect the requirement that elevators, escalators, or~~
26 ~~related equipment be inspected at least once each calendar year.~~

27 ~~[(d)]~~ For the purpose of determining timely filing under

1 Subsection (a)(3) and Section 754.016(b), an inspection report and
2 filing fees [~~fee~~] are considered filed on the earlier of:

3 (1) the date of personal delivery;

4 (2) the date of postmark [~~mailing~~] by United States
5 mail if properly addressed to the department; or

6 (3) the date of deposit with a commercial courier
7 service, if properly addressed to the department [~~commissioner~~].

8 (d) [~~(e) If the inspection report and fee required by~~
9 ~~Subsection (a)(3) are not timely filed, the commissioner may charge~~
10 ~~the owner of the real property on which the elevator, escalator, or~~
11 ~~related equipment is located an additional \$100 fee for late~~
12 ~~filing.~~

13 [~~(f) The commissioner may not require that an inspection~~
14 ~~report or certificate of compliance be placed inside or immediately~~
15 ~~outside an elevator cab or escalator or in the lobby or hallways of~~
16 ~~a building.~~

17 [~~(g)~~] A fee may not be charged or collected for a
18 certificate of compliance for an institution of higher education as
19 defined in Section 61.003, Education Code.

20 (e) An owner shall report to the department each accident
21 involving equipment not later than 72 hours following the accident.

22 Sec. 754.020. CHIEF ELEVATOR INSPECTOR [~~DEPOSIT OF FEES~~].
23 The commissioner may appoint a chief elevator inspector to
24 administer the equipment inspection and registration program. The
25 chief elevator inspector:

26 (1) may not have a financial or commercial interest in
27 the manufacture, maintenance, repair, inspection, installation, or

1 sale of equipment; and

2 (2) must possess a QEI-1 certification or obtain the
3 certification within six months after becoming chief inspector 2
4 ~~[Fees collected under this subchapter shall be deposited to the~~
5 ~~credit of an account in the general revenue fund that may be used by~~
6 ~~the commissioner only to administer and enforce this subchapter and~~
7 ~~to reimburse expenses of board members provided by this~~
8 ~~subchapter.]~~ 1)

9 Sec. 754.021. LIST OF REGISTERED INSPECTORS AND CONTRACTORS
10 ~~[, PERSONNEL]~~. The commissioner shall ~~[may]~~:

11 (1) compile a list of ~~[ASME-QEI-1]~~ certified
12 inspectors and contractors who are registered with the department
13 ~~[to perform an inspection under this subchapter]~~; and

14 (2) employ personnel who are ~~[as]~~ necessary to enforce
15 this subchapter.

16 Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the department
17 ~~[commissioner]~~ learns of a situation of noncompliance under Section
18 754.019, the department ~~[commissioner]~~ shall send notice by
19 certified mail of the noncompliance and the actions required to
20 remedy the noncompliance to the record owner of the real property on
21 which the equipment that is the subject of the noncompliance is
22 located.

23 Sec. 754.023. INVESTIGATION; REGISTRATION ~~[LICENSE]~~
24 PROCEEDINGS; INJUNCTION; EMERGENCY ORDERS. (a) If there is good
25 cause ~~[for the commissioner]~~ to believe that ~~[an elevator, an~~
26 ~~escalator, or related]~~ equipment on real property poses an imminent
27 and significant danger ~~[is dangerous]~~ or that an accident involving

1 ~~[an elevator, an escalator, or related]~~ equipment occurred on the
2 property and serious bodily injury or property damage resulted, a
3 department employee ~~[the commissioner]~~ may enter the property
4 during regular business hours after notice to the owner, operator,
5 or person in charge of the property to inspect the ~~[elevator,~~
6 ~~escalator, or related]~~ equipment or investigate the danger or
7 accident at no cost to the owner.

8 (b) The department employee ~~[commissioner]~~ may enter real
9 property during regular business hours after notice to the owner,
10 operator, or person in charge of the property to verify, at no cost
11 to the owner, whether an inspection report or certificate of
12 compliance has been displayed as required under Section 754.019(a).

13 (c) The commissioner may deny, suspend, or revoke a ~~[the]~~
14 registration under this subchapter and may assess an administrative
15 penalty ~~[of any ASME-QEI-1 certified inspector]~~ for:

16 (1) obtaining registration ~~[with the commissioner]~~ by
17 fraud or false representation;

18 (2) falsifying a ~~[any inspection]~~ report ~~[submitted to~~
19 ~~the commissioner]~~; or

20 (3) violating this subchapter or a rule adopted under
21 this subchapter.

22 (d) Proceedings for the denial, suspension, or revocation
23 of a registration and appeals from those proceedings are governed
24 by Chapter 2001, Government Code (the Administrative Procedure
25 Act).

26 (e) The commissioner is entitled to appropriate injunctive
27 relief to prevent a violation or threatened violation of this

1 subchapter or a rule adopted under this subchapter.

2 (f) [(e)] The commissioner may bring suit in a district
3 court in Travis County or in the county in which the violation or
4 threatened violation occurs. If requested, the attorney general
5 shall represent the department and its personnel ~~[commissioner]~~ in
6 the suit.

7 (g) The commissioner may issue an emergency order as
8 necessary to enforce this subchapter if the commissioner determines
9 that an emergency exists requiring immediate action to protect the
10 public health and safety.

11 (h) The commissioner may issue an emergency order with
12 simultaneous notice and without hearing or with the notice and
13 opportunity for hearing practicable under the circumstances.

14 (i) If an emergency order is issued under this section
15 without a hearing, the commissioner shall set the time and place for
16 a hearing to affirm, modify, or set aside the emergency order not
17 later than the 10th day after the date the order was issued.

18 (j) An emergency order may direct a building owner or
19 manager to disconnect power to or lock out equipment if:

20 (1) the department determines imminent and
21 significant danger to passenger safety exists if action is not
22 taken immediately and reasonable effort has been made for voluntary
23 compliance by notification to the building owner or manager of the
24 danger before the issuance of an emergency order; or

25 (2) an annual inspection has not been performed in
26 more than two years and:

27 (A) the department gives the building owner or

1 manager, or the agent of the building owner or manager, 60 days'
2 written notice by certified mail directing the equipment to be
3 inspected according to this subchapter; and

4 (B) after the expiration of the notice period
5 under Paragraph (A), the department gives the building owner or
6 manager, or the agent of the building owner or manager, written
7 notice by certified mail stating that an order to disconnect power
8 or lock out equipment will be made after the seventh day after the
9 date notice is delivered.

10 (k) If an emergency order to disconnect power or lock out
11 equipment is issued, the building owner or manager may have the
12 power reconnected or the equipment unlocked only if:

13 (1) a registered inspector or contractor or a
14 department representative has filed a written form with the
15 department verifying the imminent and significant danger has been
16 removed by repair, replacement, or other means; and

17 (2) the building owner, before the reconnection of
18 power or unlocking of equipment, reimburses the department for all
19 expenses incurred relating to the disconnection of power or
20 lockout.

21 (1) The commissioner or the commissioner's designee may
22 allow delayed payment if the building owner or manager commits in
23 writing to pay the department for the expenses required by
24 Subsection (k) not later than the 10th day after the date power is
25 reconnected or equipment is unlocked.

26 (m) If an emergency order to disconnect power or lock out
27 equipment is issued and the building owner later notifies the

1 department that the imminent and significant danger no longer
2 exists, the commissioner or the commissioner's designee shall,
3 after the requirements of Subsection (k) are satisfied, promptly
4 issue written permission to reconnect power or unlock the equipment
5 and notify the owner.

6 Sec. 754.024. CRIMINAL PENALTY. (a) A person commits an
7 offense if the person receives notice of noncompliance under
8 Section 754.022 and the person has not remedied the noncompliance
9 or entered into a bona fide contract to remedy the noncompliance
10 before the 61st day after the date on which the notice is received.

11 (b) An offense under this section is a Class C misdemeanor.

12 (c) Each day of an offense under Subsection (a) constitutes
13 a separate offense.

14 Sec. 754.025. APPLICATION OF CERTAIN LAW. Chapter 53,
15 Occupations Code, applies to a registration under this subchapter.

16 SECTION 2. (a) This Act takes effect September 1, 2003,
17 except that:

18 (1) a contractor is not required to be registered
19 under Section 754.0171, Health and Safety Code, as amended by this
20 Act, before January 1, 2004; and

21 (2) an escalator constructed before September 1, 2003,
22 is not required to comply with step/skirt index requirements
23 imposed under the 2002 American Society of Mechanical Engineers
24 Safety Code for Elevators and Escalators A17.3 before September 1,
25 2009.

26 (b) A member of the elevator advisory board serving on the
27 effective date of this Act continues to serve until removed by the

1 ~~governor or until the member's successor is appointed by the~~
2 ~~governor.~~

ADOPTED as amended

APR 08 2003

Atty. Gen.
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: Cawona

Amend C.S.S.B. 1090 (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter B, Chapter 754, Health and Safety Code, is amended to read as follows:

SUBCHAPTER B. INSPECTION, ~~[AND]~~ CERTIFICATION, AND REGISTRATION

Sec. 754.011. DEFINITIONS. In this subchapter:

(1) "Acceptance inspection" means an inspection performed at the completion of the initial installation or alteration of equipment and in accordance with the applicable ASME Code A17.1.

(2) "Accident" means an event involving equipment that results in death or serious bodily injury to a person.

(3) "Alteration" means a change in or modernization of existing equipment. The term does not include maintenance, repair, replacement, or a cosmetic change that does not affect the operational safety of the equipment or diminish the safety of the equipment below the level required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, at the time of alteration.

(4) "Annual inspection" means an inspection of equipment performed in a 12-month period in accordance with the applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21. The term includes an acceptance inspection performed within that period.

(5) "ASCE Code 21" means the American Society of Civil Engineers Code 21 for people movers operated by cables.

(6) "ASME Code A17.1" means the American Society of Mechanical Engineers Safety Code for Elevators and Escalators A17.1.

Insert
(on'ts to
and)

Fl.Am.#1 2nd Rdy 4-9-03 Bte 4/9/03

1 (6-a) "Executive director" means the executive
2 director of the department.

3 (7) [(2)] "ASME Code A17.3" means the 2002 American
4 Society of Mechanical Engineers Safety Code for Elevators and
5 Escalators A17.3.

6 (8) "ASME Code A18.1" means the American Society of
7 Mechanical Engineers Safety Code for Platform Lifts and Stairway
8 Chairlifts A18.1.

9 (9) [(3)] "Board" means the elevator advisory board.

10 (10) [(4)] "Commission" means the Texas Commission of
11 Licensing and Regulation.

12 (11) [(5)] "Commissioner" means the commissioner of
13 licensing and regulation.

14 (12) "Contractor" means a person engaged in the
15 installation, repair, or maintenance of equipment. The term does
16 not include an employee of a contractor or a person engaged in
17 cleaning or any other work performed on equipment that does not
18 affect the operational safety of the equipment or diminish the 2/3
19 safety of the equipment below the level required by the ASME Code
20 A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as
21 applicable.

22 (13) [(6)] "Department" means the Texas Department of
23 Licensing and Regulation.

24 (14) "Equipment" means an elevator, escalator,
25 chairlift, platform lift, automated people mover operated by
26 cables, or moving sidewalk, or related equipment.

27 (15) "Industrial facility" means a facility to which
28 access is primarily limited to employees or contractors working in that
34126 of the facility.

29 (16) [(7)] "Qualified historic building or facility"
30 means a building or facility that is:

31 (A) listed in or eligible for listing in the

1 National Register of Historic Places; or

2 (B) designated as a Recorded Texas Historic
3 Landmark or State Archeological Landmark.

4 (17) [(8)] "Related equipment" means:

5 (A) automatic equipment that is used to move a
6 person in a manner that is similar to that of an elevator, an [ex]
7 escalator, a chairlift, a platform lift, an automated people mover
8 operated by cables, or [and includes] a moving sidewalk; and

9 (B) hoistways, pits, and machine rooms for
10 equipment.

11 (18) "Serious bodily injury" means a major impairment
12 to bodily function or serious dysfunction of any bodily organ or
13 part requiring medical attention. 3/4

14 (19) "Unit of equipment" means one elevator,
15 escalator, chairlift, platform lift, automated people mover
16 operated by cables, or moving sidewalk, or related equipment.

17 Sec. 754.0111. EXEMPTION. (a) This subchapter does not
18 apply to ~~[an elevator, escalator, or related]~~ equipment in a
19 private building for a labor union, trade association, private
20 club, or charitable organization that has two or fewer floors.

21 (b) This subchapter does not apply to an elevator located in
22 a single-family dwelling, except as provided by Section 754.0141.

23 Sec. 754.012. ELEVATOR ADVISORY BOARD. (a) The elevator
24 advisory board is composed of nine members appointed by the
25 presiding officer of the commission [commissioner] as follows:

26 (1) a representative of the insurance industry or a
27 certified elevator inspector;

28 (2) a representative of ~~[elevator, escalator, and~~
29 ~~related]~~ equipment constructors;

30 (3) a representative of owners or managers of a
31 building [buildings] having fewer than six stories and having ~~[an~~

1 ~~elevator, an escalator, or related~~ equipment;

2 (4) a representative of owners or managers of a
3 building [~~buildings~~] having six stories or more and having [~~an~~
4 ~~elevator, an escalator, or related~~] equipment;

5 (5) a representative of independent [~~elevator,~~
6 ~~escalator, and related~~] equipment maintenance companies;

7 (6) a representative of [~~elevator, escalator, and~~
8 ~~related~~] equipment manufacturers;

9 (7) a licensed or registered engineer or architect 4/5
10 [~~representative of professional engineers or architects~~];

11 (8) a public member; and

12 (9) a public member with a physical disability.

13 (b) Board members serve at the will of the commission
14 [~~commissioner~~].

15 (c) The presiding officer of the commission [~~commissioner~~]
16 shall appoint a presiding officer of the board to serve for two
17 years.

18 (d) The board shall meet at least twice each calendar year.

19 (e) A board member serves without compensation but is
20 entitled to reimbursement for travel as provided for in the General
21 Appropriations Act [~~and other necessary expenses incurred in~~
22 ~~performing duties under this subchapter~~].

23 Sec. 754.013. BOARD DUTIES. To protect public safety and to
24 identify and correct potential hazards, the board shall advise the
25 commission [~~commissioner~~] on:

26 (1) the adoption of appropriate standards for the
27 installation, alteration, operation, and inspection of [~~elevators,~~
28 ~~escalators, and related~~] equipment;

29 (2) the status of [~~elevators, escalators, and related~~]
30 equipment used by the public in this state; [~~and~~]

31 (3) sources of information relating to equipment

1 safety;

2 (4) public awareness programs related to elevator
3 safety, including programs for sellers and buyers of single-family
4 dwelling with elevators, chairlifts, or platform lifts; and

5 (5) any other matter considered relevant by the 9/16
6 commission ~~[commissioner]~~.

7 Sec. 754.014. STANDARDS ADOPTED BY COMMISSION
8 ~~[COMMISSIONER]~~. (a) The commission ~~[commissioner]~~ shall adopt
9 standards for the installation, maintenance, alteration,
10 operation, and inspection of ~~[elevators, escalators, and related]~~
11 equipment used by the public in:

12 (1) buildings owned or operated by the state, a
13 state-owned institution or agency, or a political subdivision of
14 the state; and

15 (2) buildings that contain ~~[an elevator, an escalator,~~
16 ~~or related]~~ equipment that is open to the general public, including
17 a hotel, motel, apartment house, boardinghouse, church, office
18 building, shopping center, or other commercial establishment.

19 (b) Standards adopted by the commission ~~[commissioner]~~ may
20 not contain requirements in addition to the requirements in the
21 ASME Code A17.1, ~~[or]~~ ASME Code A17.3, ASME Code A18.1, or ASCE Code
22 21. The standards must allow alteration of existing equipment if
23 the alteration does not diminish the safety of the equipment below
24 the level required by this subchapter at the time of alteration.

25 (c) Standards adopted by the commission ~~[commissioner]~~ must
26 require ~~[elevators, escalators, and related]~~ equipment to comply
27 with the installation requirements of the ~~[following, whichever is~~
28 ~~the least restrictive.~~

29 ~~[(1) the]~~ ASME Code A17.1, ASME Code A18.1, or ASCE
30 Code 21 that was in effect and applicable on the date of
31 installation of the ~~[elevators, escalators, and related]~~

1 equipment~~[, or /~~

2 ~~[(2) an applicable municipal ordinance governing the~~
3 ~~installation of elevators, escalators, and related equipment that~~
4 ~~was in effect on the date of installation].~~

5 (d) Standards adopted by the commission ~~[commissioner]~~ must
6 require ~~[elevators, escalators, and related]~~ equipment to comply
7 with the installation requirements of the [1994] ASME Code A17.3
8 that contains minimum safety standards for all ~~[elevators,~~
9 ~~escalators, and related]~~ equipment, regardless of the date of
10 installation.

11 (e) The executive director ~~[On written request, the~~
12 ~~commissioner]~~ shall grant a delay for compliance with the
13 applicable ASME Code A17.1, ~~[or the 1994]~~ ASME Code A17.3, or ASME
14 Code A18.1 until a specified time if compliance is not readily
15 achievable, as that phrase is defined in the Americans with
16 Disabilities Act (42 U.S.C. Section 12101 et seq.), or regulations
17 adopted under that Act. The accumulated total time of all delays
18 may not exceed three years, except as provided by Subsection (f) or
19 as allowed in the discretion of the executive director.

20 (f) The executive director ~~[On written request, the~~
21 ~~commissioner]~~ shall grant a delay until September 1, 2005, for
22 compliance with the requirements for door restrictors or
23 firefighter's service in the [1994] ASME Code A17.3 if those
24 requirements were not included in the ASME Code A17.1 that was in
25 effect on the date of installation ~~[of the elevator, escalator, or~~
26 ~~related equipment]~~ and the [that] equipment was not subsequently
27 installed ~~[by an owner of the elevator, escalator, or related~~
28 ~~equipment].~~ /

29 (g) The executive director ~~[commissioner]~~ may grant a
30 waiver of compliance from an applicable code requirement ~~[with the~~
31 ~~applicable ASME Code A17.1 or the 1994 ASME Code A17.3]~~ if the

1 executive director ~~[commissioner]~~ finds that:

2 (1) the building in which the ~~[elevator, escalator, or~~
3 ~~related]~~ equipment is located is a qualified historic building or
4 facility or the noncompliance is due to structural components of
5 the building; ~~[and]~~

6 (2) noncompliance will not constitute a significant
7 threat to passenger safety; and

8 (3) noncompliance, with adequate alternative
9 safeguards, will not constitute a significant threat to worker
10 safety.

11 (h) The executive director shall grant a waiver of
12 compliance if the noncompliance resulted from compliance with a
13 municipal equipment construction code at the time of the original
14 installation and the noncompliance does not pose imminent and
15 significant danger. The executive director ~~[commissioner]~~ may
16 grant a waiver of compliance with the firefighter's service
17 provisions of the ASME Code A17.1 or the ~~[1994]~~ ASME Code A17.3 in
18 an elevator that exclusively serves a vehicle parking garage in a
19 building that:

20 (1) is used only for parking;

21 (2) is constructed of noncombustible materials; and

22 (3) is not greater than 75 feet in height.

23 (i) This subchapter does not apply to ~~[an elevator, an~~
24 ~~escalator, or related]~~ equipment in an industrial facility, or in a ^{8/9}
25 grain silo, radio antenna, bridge tower, underground facility, or
26 dam, to which access is limited primarily ~~[principally]~~ to
27 employees of or working in that facility or structure.

28 (j) ~~[The commissioner may charge a reasonable fee as set by~~
29 ~~the commission for an application for waiver or delay.]~~ One
30 application for a waiver or delay may contain all requests related
31 to a unit of equipment ~~[particular building]~~. A delay may not be

1 granted indefinitely but must be granted for ~~[to]~~ a specified time
2 not to exceed three years.

3 (k) For purposes of this section, the date of installation
4 or alteration of equipment is the date that the owner of the real
5 property entered into a contract for the installation or alteration
6 of the ~~[purchase of the elevators, escalators, or related]~~
7 equipment. If that date cannot be established, the date of
8 installation or alteration is the date of issuance of the municipal
9 building permit under which the ~~[elevators, escalators, or related]~~
10 equipment was installed or altered ~~[constructed]~~ or, if a municipal
11 building permit was not issued, the date that electrical
12 consumption began for the construction of the building in which the
13 ~~[elevators, escalators, or related]~~ equipment was installed.

14 Sec. 754.0141. STANDARDS FOR EQUIPMENT IN SINGLE-FAMILY
15 DWELLINGS; REQUIRED INFORMATION. (a) Elevators, chairlifts, or
16 platform lifts installed in a single-family dwelling on or after
17 January 1, 2004, must comply with the ASME Code A17.1 or A18.1, as
18 applicable, and must be inspected by a QEI-1 certified inspector
19 after the installation is complete. The inspector shall provide
20 the dwelling owner a copy of the inspection report. / 2/10

21 (b) The commission shall, before January 1, 2004, adopt
22 rules containing minimum safety standards that must be used by
23 QEI-1 certified inspectors when inspecting elevators, chairlifts,
24 and platform lifts installed in single-family dwellings.

25 (c) A municipality may withhold a certificate of occupancy
26 for a dwelling or for the installation of the elevator or chairlift
27 until the owner provides a copy of the QEI-1 inspection report to
28 the municipality.

29 (d) A contractor is not required to report to the department
30 any information concerning equipment in a single-family dwelling or
31 the contractor's work on the equipment.

1 (e) On completing installation of equipment in a
2 single-family dwelling, a contractor shall provide the dwelling
3 owner with relevant information, in writing, about use, safety, and
4 maintenance of the equipment, including the advisability of having
5 the equipment periodically and timely inspected by a QEI-1
6 certified inspector.

7 (f) An inspection by a QEI-1 certified inspector of
8 equipment in a single-family dwelling may be performed only at the
9 request and with the consent of the owner. The owner of a
10 single-family dwelling is not subject to Section 754.022, 754.023,
11 or 754.024.

12 Sec. 754.015. RULES. (a) The commission [~~commissioner~~] by
13 rule shall provide for:

14 (1) an annual [~~the~~] inspection and certification of
15 the [~~once each calendar year of elevators, escalators, and related~~]
16 equipment covered by standards adopted under this subchapter; / 10/11

17 (2) [~~the~~] enforcement of those standards;

18 (3) registration [~~the certification~~] of qualified
19 [~~persons as~~] inspectors and contractors [~~for the purposes of this~~
20 subchapter]; [~~and~~]

21 (4) the form of [~~the~~] inspection documents, contractor
22 reports, [report] and certificates [~~certificate~~] of compliance;

23 (5) notification to building owners, architects, and
24 other building industry professionals regarding the necessity of
25 annually inspecting equipment;

26 (6) approval of continuing education programs for
27 registered QEI-1 certified inspectors; and

28 (7) standards of conduct for individuals who are
29 registered under this subchapter.

30 (b) The commission [~~commissioner~~] by rule may not [~~require~~
31 ~~that~~]:

1 (1) require inspections of equipment to [inspection]
2 be made more often than every 12 months, except as provided by
3 Subsection (c) [once per year of elevators, escalators, and related
4 equipment];

5 (2) require persons to post a bond or furnish
6 insurance or to have minimum experience or education as a condition
7 of certification or registration; [and]

TA#2 8 (3) require inspection reports or certificates of
9 compliance to be placed in locations other than one provided in
10 Section 54.019(a)(4);

11 ~~(4)~~ require building owners to submit to the
12 department proposed plans for equipment installation or
13 alteration; or

14 ⁴~~(5)~~ prohibit a QEI-1 certified inspector who is
15 registered with the department from inspecting equipment. ~~or~~

16 ~~(6) require an inspection report or certificate of~~
17 ~~compliance to be placed inside or immediately outside an elevator~~
18 ~~cab or escalator or in the lobby or hallways of a building.~~

19 (c) The commission by rule may require a reinspection or
20 recertification of equipment if the equipment has been altered and
21 poses a significant threat to passenger or worker safety or if an
22 annual inspection report indicates an existing violation has
23 continued longer than permitted in a delay granted by the executive
24 director.

25 (d) The executive director may charge a reasonable fee as
26 set by the commission for:

27 (1) registering or renewing registration of an
28 inspector;

29 (2) registering or renewing registration of a
30 contractor;

31 (3) applying for a certificate of compliance;

1 (4) filing an inspection report as required by Section
2 754.019(a)(3), 30 days or more after the date the report is due, for
3 each day the report remains not filed after the date the report is
4 due;

5 (5) applying for a waiver or delay; and

6 (6) attending a continuing education program
7 sponsored by the department for registered QEI-1 inspectors
8 [754.019(4)].

9 Sec. 754.016. INSPECTION REPORTS ~~[REPORT]~~ AND CERTIFICATES

10 ~~[CERTIFICATE]~~ OF COMPLIANCE. (a) Inspection reports ~~[An~~
11 ~~inspection report]~~ and certificates ~~[a certificate]~~ of compliance
12 required under this subchapter must cover all ~~[elevators,~~
13 ~~escalators, and related]~~ equipment in a building or structure^{12/13}
14 appurtenant to the building, including a parking facility, that are
15 owned by the same person or persons. ~~[There shall be only one~~
16 ~~inspection report and one certificate of compliance for each~~
17 ~~building.]~~

18 (b) An inspector shall date and sign an inspection report
19 and shall issue the report to the building owner not later than the
20 10th calendar day after the date of inspection. ~~[The inspection~~
21 ~~report shall be on forms designated by the commissioner.]~~

22 (c) The executive director ~~[commissioner]~~ shall ~~[date and~~
23 ~~sign a certificate of compliance and shall]~~ issue a [the]
24 certificate of compliance to the building owner if an application
25 is submitted by the building owner with applicable fees and the
26 application reflects that:

27 (1) the ~~[The certificate of compliance shall state~~
28 ~~that the elevators, escalators, and related]~~ equipment has ~~[have]~~
29 been inspected by a certified inspector;

30 (2) the inspection report shows the equipment is ~~[and~~
31 ~~found by the inspector to be]~~ in compliance with the requirements of

1 this chapter; and

2 (3) to the extent the report shows any noncompliance
3 that does not pose an imminent and significant danger, the building
4 owner:

5 (A) acknowledges the noncompliance will be
6 remedied within a reasonable period, not later than six months
7 following the date of the inspection report; or

8 (B) has been granted a waiver or delay for
9 compliance [~~except for any delays or waivers granted~~] by the
10 executive director [~~commissioner and stated in the certificate~~].

11 (d) The certificate of compliance shall state:

12 (1) that the elevators, escalators, and related
13 equipment have been inspected by a certified inspector and found by
14 the inspector to be in compliance, except for any delays or waivers
15 granted by the executive director and stated in the certificate;

16 (2) the date of the last inspection and the due date
17 for the next inspection; and

18 (3) contact information at the department to report a
19 violation of this subchapter.

20 Sec. 754.017. CERTIFIED INSPECTORS. (a) In order to
21 inspect equipment, an individual must:

22 (1) be registered [~~An inspector must register~~] with
23 the department;

24 (2) attend educational programs approved by the
25 department;

26 (3) [and] be certified as a QEI-1 [~~an ASME-QEI-1~~]
27 inspector by an organization accredited by the American Society of
28 Mechanical Engineers; and

29 (4) pay all applicable fees. [~~Any certification~~
30 ~~charges or fees shall be paid by the inspector.~~]

31 (b) [~~The commissioner may not by rule prohibit an ASME-QEI-1~~]

1 ~~certified inspector who is registered with the department from~~
2 ~~inspecting under this subchapter an elevator, an escalator, or~~
3 ~~related equipment.]~~ A person assisting a certified inspector and
4 working under the direct, on-site supervision of the inspector is
5 not required to be [ASME-QEI-1] certified.

6 (c) A registration expires on the first anniversary of the
7 date of issuance.

8 (d) A certified inspector may not be required to attend more
9 than seven hours of continuing education during each licensing
10 period. [~~The commissioner may charge a \$15 fee to certified~~
11 ~~inspectors for registering with the department.~~]

12 Sec. 754.0171. CONTRACTOR REGISTRATION. (a) A person may/ 14/15
13 not install, repair, or maintain equipment without registering as a
14 contractor with the department as required by this subchapter.

15 (b) A contractor shall submit an application for
16 registration and pay appropriate fees to the department. The
17 registration application form may require information concerning
18 the background, experience, or identity of the applicant.

19 (c) A registration expires on the first anniversary of the
20 date of issuance.

21 (d) A person registering as a contractor under this
22 subchapter shall submit to the department an initial report, not
23 later than the 60th day following the application date, containing:

24 (1) the street address of each building or location at
25 which the person performed installation, repair, alteration, or
26 maintenance of equipment for the previous two years; and

27 (2) the name and mailing address of the building
28 owner.

29 (e) After the initial report required by Subsection (d), a
30 contractor registered as required by this subchapter shall submit
31 to the department a quarterly report containing:

1 (1) the street address of each building or location at
2 which the contractor performed installation, repair, alteration,
3 or maintenance of equipment not reported in the contractor's
4 initial report to the department under Subsection (d); and

5 (2) the name and mailing address of the building
6 owner.

7 (f) Installation, repair, alteration, and maintenance
8 standards for contractors must be consistent with ASME Code A17.1, 15/16
9 ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

10 Sec. 754.0172. INSPECTION FEE. [(a) A person inspecting
11 an elevator, an escalator, or related equipment under this
12 subchapter may not charge more than \$65 per elevator cab or per
13 escalator for each inspection.

14 ~~[(b)]~~ The amount charged for an inspection or the
15 performance of an inspection of equipment under this subchapter may
16 not be contingent on the existence of a maintenance contract
17 between the person performing the inspection and any other person.

18 Sec. 754.018. POWERS OF MUNICIPALITIES. Subject to Section
19 754.014(h), if [if] a municipality operates a program for the
20 installation, maintenance, alteration, inspection, or [and]
21 certification of [elevators, escalators, and related] equipment,
22 this subchapter shall not apply to the [elevators, escalators, and
23 related] equipment in that municipality, provided that the
24 standards of installation, maintenance, alteration, inspection,
25 and certification are at least equivalent to [no less stringent
26 than] those contained in this subchapter.

27 Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) The
28 owner of real property on which ~~[an elevator, an escalator, or~~
29 ~~related] equipment covered by this subchapter is located shall:~~

30 (1) have the ~~[elevator, escalator, or related]~~
31 equipment inspected annually by a ~~[an ASME-QEI-1]~~ certified

1 inspector [~~in accordance with the commissioner's rules~~];

2 (2) obtain an inspection report from the inspector
3 evidencing that all [~~elevators, escalators, and related~~] equipment
4 in a building on the real property was [~~were~~] inspected in/ 16/17
5 accordance with this subchapter and rules adopted under this
6 subchapter;

7 (3) file with the executive director [~~commissioner a~~
8 ~~copy of~~] each inspection report, and all applicable fees, [~~and a \$20~~
9 ~~filing fee for each report, plus \$5 for each elevator, escalator, or~~
10 ~~related equipment~~] not later than the 60th day after the date on
11 which an inspection is made under this subchapter;

Insert
F.A.#12
(3)
12 (4) display the certificate of compliance or a copy of
13 the certificate:

14 (A) in each [~~the~~] elevator mechanical room if the
15 certificate relates to an elevator;

16 (B) in each [~~the~~] escalator box if the
17 certificate relates to an escalator; or

18 (C) in a place designated by rule if related to
19 equipment other than an elevator or escalator [~~the commissioner if~~
20 ~~the certificate relates to related equipment~~]; and

21 (5) display the inspection report at the locations
22 designated in Subdivision (4) until a certificate of compliance is
23 issued [~~by the commissioner~~].

24 (b) When an inspection report is filed [~~with the~~
25 ~~commissioner~~], the owner shall submit to the executive director, as
26 applicable [~~commissioner~~]:

27 (1) verification that any deficiencies in the
28 inspector's report have been remedied or that a bona fide contract
29 to remedy the deficiencies has been entered into; or

30 (2) any application for delay or waiver of an/ 17/18
31 applicable standard.

1 (c) ~~[An inspection must be made not later than 18 months~~
2 ~~after the previous calendar year's inspection. This subsection~~
3 ~~does not affect the requirement that elevators, escalators, or~~
4 ~~related equipment be inspected at least once each calendar year.~~

5 [(d)] For the purpose of determining timely filing under
6 Subsection (a)(3) and Section 754.016(b), an inspection report and
7 filing fees [fee] are considered filed on the earlier of:

8 (1) the date of personal delivery;

9 (2) the date of postmark [mailing] by United States
10 mail if properly addressed to the executive director; or

11 (3) the date of deposit with a commercial courier
12 service, if properly addressed to the executive director
13 [commissioner].

14 (d) ~~[(e) If the inspection report and fee required by~~
15 ~~Subsection (a)(3) are not timely filed, the commissioner may charge~~
16 ~~the owner of the real property on which the elevator, escalator, or~~
17 ~~related equipment is located an additional \$100 fee for late~~
18 ~~filing.~~

19 ~~[(f) The commissioner may not require that an inspection~~
20 ~~report or certificate of compliance be placed inside or immediately~~
21 ~~outside an elevator cab or escalator or in the lobby or hallways of~~
22 ~~a building.~~

23 [(g)] A fee may not be charged or collected for a
24 certificate of compliance for an institution of higher education as
25 defined in Section 61.003, Education Code.

26 (e) An owner shall report to the department each accident / 18/19
27 involving equipment not later than 72 hours following the accident.

28 Sec. 754.020. CHIEF ELEVATOR INSPECTOR ~~[DEPOSIT OF FEES]~~.
29 The executive director may appoint a chief elevator inspector to
30 administer the equipment inspection and registration program. The
31 chief elevator inspector:

1 (1) may not have a financial or commercial interest in
2 the manufacture, maintenance, repair, inspection, installation, or
3 sale of equipment; and

4 (2) must possess a QEI-1 certification or obtain the
5 certification within six months after becoming chief inspector
6 ~~[Fees collected under this subchapter shall be deposited to the~~
7 ~~credit of an account in the general revenue fund that may be used by~~
8 ~~the commissioner only to administer and enforce this subchapter and~~
9 ~~to reimburse expenses of board members provided by this~~
10 ~~subchapter].~~

11 Sec. 754.021. LIST OF REGISTERED INSPECTORS AND CONTRACTORS
12 ~~[PERSONNEL]~~. The executive director shall ~~[commissioner may]~~:

13 (1) compile a list of ~~[ASME-QEI-1]~~ certified
14 inspectors and contractors who are registered with the department
15 ~~[to perform an inspection under this subchapter]; and~~

16 (2) employ personnel who are ~~[as]~~ necessary to enforce
17 this subchapter.

18 Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the department
19 ~~[commissioner]~~ learns of a situation of noncompliance under Section
20 754.019, the department ~~[commissioner]~~ shall send notice by
21 certified mail of the noncompliance and the actions required to
22 remedy the noncompliance to the record owner of the real property on ^{19/20}
23 which the equipment that is the subject of the noncompliance is
24 located.

25 Sec. 754.023. INVESTIGATION; REGISTRATION ~~[LICENSE]~~
26 PROCEEDINGS; INJUNCTION; EMERGENCY ORDERS. (a) If there is good
27 cause for the executive director ~~[commissioner]~~ to believe that ~~[an~~
28 ~~elevator, an escalator, or related]~~ equipment on real property
29 poses an imminent and significant danger ~~[is dangerous]~~ or that an
30 accident involving ~~[an elevator, an escalator, or related]~~
31 equipment occurred on the property and serious bodily injury or

1 property damage resulted, the executive director [~~the~~
2 ~~commissioner~~] may enter the property during regular business hours
3 after notice to the owner, operator, or person in charge of the
4 property to inspect the [~~elevator, escalator, or related~~] equipment
5 or investigate the danger or accident at no cost to the owner.

6 (b) The executive director [~~commissioner~~] may enter real
7 property during regular business hours after notice to the owner,
8 operator, or person in charge of the property to verify, at no cost
9 to the owner, whether an inspection report or certificate of
10 compliance has been displayed as required under Section 754.019(a).

11 (c) The commission [~~commissioner~~] may deny, suspend, or
12 revoke a [~~the~~] registration under this subchapter and may assess an
13 administrative penalty [~~of any ASME-QEI-1 certified inspector~~]
14 for:

15 (1) obtaining registration with the executive
16 director [~~commissioner~~] by fraud or false representation;

17 (2) falsifying a [~~any inspection~~] report submitted to
18 the executive director [~~commissioner~~]; or/ 20/21

19 (3) violating this subchapter or a rule adopted under
20 this subchapter.

21 (d) Proceedings for the denial, suspension, or revocation
22 of a registration and appeals from those proceedings are governed
23 by Chapter 2001, Government Code (~~the Administrative Procedure~~
24 ~~Act~~). }

25 (e) The executive director [~~commissioner~~] is entitled to
26 appropriate injunctive relief to prevent a violation or threatened
27 violation of this subchapter or a rule adopted under this
28 subchapter.

29 (f) [~~(e)~~] The executive director [~~commissioner~~] may bring
30 suit in a district court in Travis County or in the county in which
31 the violation or threatened violation occurs. If requested, the

1 attorney general shall represent the executive director
2 [~~commissioner~~] in the suit.

3 (g) The executive director may issue an emergency order as
4 necessary to enforce this subchapter if the executive director
5 determines that an emergency exists requiring immediate action to
6 protect the public health and safety.

7 (h) The executive director may issue an emergency order with
8 simultaneous notice and without hearing or with the notice and
9 opportunity for hearing practicable under the circumstances.

10 (i) If an emergency order is issued under this section
11 without a hearing, the executive director shall set the time and
12 place for a hearing to affirm, modify, or set aside the emergency
13 order not later than the 10th day after the date the order was
14 issued.

15 (j) An emergency order may direct a building owner or 2/12
16 manager to disconnect power to or lock out equipment if:

17 (1) the department determines imminent and
18 significant danger to passenger safety exists if action is not
19 taken immediately and reasonable effort has been made for voluntary
20 compliance by notification to the building owner or manager of the
21 danger before the issuance of an emergency order; or

22 (2) an annual inspection has not been performed in
23 more than two years and:

24 (A) the department gives the building owner or
25 manager, or the agent of the building owner or manager, 60 days'
26 written notice by certified mail directing the equipment to be
27 inspected according to this subchapter; and

28 (B) after the expiration of the notice period
29 under Paragraph (A), the department gives the building owner or
30 manager, or the agent of the building owner or manager, written
31 notice by certified mail stating that an order to disconnect power

1 or lock out equipment will be made after the seventh day after the
2 date notice is delivered.

3 (k) If an emergency order to disconnect power or lock out
4 equipment is issued, the building owner or manager may have the
5 power reconnected or the equipment unlocked only if:

6 (1) a registered inspector or contractor or a
7 department representative has filed a written form with the
8 department verifying the imminent and significant danger has been
9 removed by repair, replacement, or other means; and

10 (2) the building owner, before the reconnection of
11 power or unlocking of equipment, reimburses the department for all 14/23
12 expenses incurred relating to the disconnection of power or
13 lockout.

14 (1) The executive director or the executive director's
15 designee may allow delayed payment if the building owner or manager
16 commits in writing to pay the department for the expenses required
17 by Subsection (k) not later than the 10th day after the date power
18 is reconnected or equipment is unlocked.

19 (m) If an emergency order to disconnect power or lock out
20 equipment is issued and the building owner later notifies the
21 department that the imminent and significant danger no longer
22 exists, the executive director or the executive director's designee
23 shall, after the requirements of Subsection (k) are satisfied,
24 promptly issue written permission to reconnect power or unlock the
25 equipment and notify the owner.

26 Sec. 754.024. CRIMINAL PENALTY. (a) A person commits an
27 offense if the person receives notice of noncompliance under
28 Section 754.022 and the person has not remedied the noncompliance
29 or entered into a bona fide contract to remedy the noncompliance
30 before the 61st day after the date on which the notice is received.

31 (b) An offense under this section is a Class C misdemeanor.

1 (c) Each day of an offense under Subsection (a) constitutes
2 a separate offense.

3 Sec. 754.025. APPLICATION OF CERTAIN LAW. Chapter 53,
4 Occupations Code, applies to a registration under this subchapter.

5 SECTION 4. (a) This Act takes effect September 1, 2003,
6 except that:

7 (1) a contractor is not required to be registered
8 under Section 754.0171, Health and Safety Code, as amended by this
9 Act, before January 1, 2004; and

10 (2) an escalator constructed before September 1, 2003,
11 is not required to comply with step/skirt index requirements
12 imposed under the 2002 American Society of Mechanical Engineers
13 Safety Code for Elevators and Escalators A17.3 before September 1,
14 2009.

15 (b) A member of the elevator advisory board serving on the
16 effective date of this Act continues to serve until removed by the
17 governor or until the member's successor is appointed by the
18 governor.

ADOPTED

APR 08 2003

Robert Spaw
Secretary of the Senate

Amendment to The amendment

FLOOR AMENDMENT NO. 2

BY: *[Signature]*

1 Amend amendment _____ by _____ to C.S.S.B.

2 1090 as follows:

3 *marked on 3.11* ✓ (1) In amended Section 754.015(b), Health and Safety Code,
4 strike amended Subdivisions (3) through (6) (page 10, lines 8
5 through 18) and substitute the following:

6 (3) ~~[inspection reports or certificates of compliance to~~
7 ~~be placed in locations other than one provided in Section 2]~~ *new* require
8 building owners to submit to the department proposed plans for
9 equipment installation or alteration; or

10 (4) prohibit a OEI-1 certified inspector who is
11 registered with the department from inspecting equipment, or

12 ~~(5) require an inspection report or certificate of~~
13 ~~compliance to be placed inside or immediately outside an elevator~~
14 ~~cab or escalator or in the lobby or hallways of a building.~~

15 (2) Strike amended Sections 754.016(c) and (d), Health and
16 Safety Code (page 11, line 22 through page 12, line 19), and
17 substitute new amended Sections 754.016(c) and (d) as follows:

*Insert
FA #2
(2)
at
p. 11, l. 22*
18 (c) The executive director ~~[commissioner]~~ shall date and sign
19 a certificate of compliance and shall issue the certificate to the
20 building owner. The certificate of compliance shall state:

21 (1) that the ~~[elevators, escalators, and related]~~

Insert (2) (cont)

1 equipment has ~~have~~ been inspected by a certified inspector and
2 found by the inspector to be in compliance, except for any delays
3 or waivers granted by the executive director ~~[commissioner]~~ and
4 stated in the certificate;

5 (2) the date of the last inspection and the due date for
6 the next inspection; and

7 (3) contact information at the department to report a
8 violation of this subchapter.

9 (d) The commission by rule shall:

10 (1) specify what information must be contained in a
11 certificate of compliance;

12 (2) describe the procedure by which a certificate of
13 compliance is issued;

14 (3) require that a certificate of compliance related to
15 an elevator be posted in a publicly visible area of the building;
16 and

17 (4) determine what constitutes a "publicly visible area"
18 under Subdivision (3).

19 (3) Strike amended Section 754.019(a)(4), Health and Safety
20 Code (page 15, lines 12 through 20), and substitute a new amended
21 Section 754.019(a)(4) as follows:

22 (4) display the certificate of compliance:

23 (A) in a publicly visible area of the building, as
24 determined by commission rule under Section 754.016, [the elevator
25 mechanical room] if the certificate relates to an elevator;

Insert (3)(cont)

(B) in the escalator box if the certificate relates to an escalator; or

(C) in a place designated by the executive director [commissioner] if the certificate relates to [related] equipment other than an elevator or escalator; and

(4) Insert new Sections 2 and 3 of the bill as follows (on page 21, between lines 4 and 5):

SECTION 2. Not later than December 1, 2003, the Texas Commission of Licensing and Regulation shall adopt the rules required by Sections 754.016 and ^{Subsection (a), Section} 754.019 ^{at} Health and Safety Code, as amended by this Act.

SECTION 3. The changes in law made by this Act apply only to an inspection report or certificate of compliance issued on or after the effective date of this Act. An inspection report or certificate issued before the effective date of this Act is covered by the law in effect when the report or certificate was issued and is valid until the renewal date of that report or certificate under the terms of the former law, and the former law is continued in effect for that purpose. On renewal, an inspection report or certificate is subject to Chapter 754, Health and Safety Code, as amended by this Act.

(5) Renumber subsequent sections of the bill appropriately.

3rd Reading

ADOPTED

u.c.

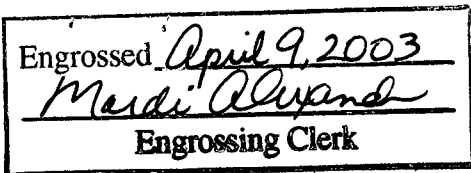
APR 09 2003

Atty. Gen.
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: Carmona

- 1 Amend the ^{floor}~~proposed committee~~ substitute to S.B. No. 1090 in
2 Section 1 of the ^{floor}~~proposed committee~~ substitute, in added Section
3 754.011(15), Health and Safety Code (page ²~~2~~, line ²⁸~~3~~), by striking
4 "employees of the facility" and substituting "employees or
5 contractors working in that facility".



certify this to be a true and correct
copy of the indicated document as
referred or transmitted to committee.

Chief Clerk of the House

By: Carona
(Geren)

S.B. No. 1090

A BILL TO BE ENTITLED

AN ACT

relating to inspection, installation, repair, and maintenance of
elevators, escalators, chairlifts, people movers, moving
sidewalks, platform lifts, and related equipment; providing an
administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 754, Health and Safety
Code, is amended to read as follows:

SUBCHAPTER B. INSPECTION, ~~AND~~ CERTIFICATION, AND REGISTRATION

Sec. 754.011. DEFINITIONS. In this subchapter:

(1) "Acceptance inspection" means an inspection
performed at the completion of the initial installation or
alteration of equipment and in accordance with the applicable ASME
Code A17.1.

(2) "Accident" means an event involving equipment that
results in death or serious bodily injury to a person.

(3) "Alteration" means a change in or modernization of
existing equipment. The term does not include maintenance, repair,
replacement, or a cosmetic change that does not affect the
operational safety of the equipment or diminish the safety of the
equipment below the level required by the ASME Code A17.1, ASME Code
A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, at the time
of alteration.

(4) "Annual inspection" means an inspection of

1 equipment performed in a 12-month period in accordance with the
2 applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or
3 ASCE Code 21. The term includes an acceptance inspection performed
4 within that period.

5 (5) "ASCE Code 21" means the American Society of Civil
6 Engineers Code 21 for people movers operated by cables.

7 (6) "ASME Code A17.1" means the American Society of
8 Mechanical Engineers Safety Code for Elevators and Escalators
9 A17.1.

10 (6-a) "Executive director" means the executive
11 director of the department.

12 (7) [~~4~~] "ASME Code A17.3" means the 2002 American
13 Society of Mechanical Engineers Safety Code for Elevators and
14 Escalators A17.3.

15 (8) "ASME Code A18.1" means the American Society of
16 Mechanical Engineers Safety Code for Platform Lifts and Stairway
17 Chairlifts A18.1.

18 (9) [~~3~~] "Board" means the elevator advisory board.

19 (10) [~~4~~] "Commission" means the Texas Commission of
20 Licensing and Regulation.

21 (11) [~~5~~] "Commissioner" means the commissioner of
22 licensing and regulation.

23 (12) "Contractor" means a person engaged in the
24 installation, repair, or maintenance of equipment. The term does
25 not include an employee of a contractor or a person engaged in
26 cleaning or any other work performed on equipment that does not
27 affect the operational safety of the equipment or diminish the

1 safety of the equipment below the level required by the ASME Code
2 A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as
3 applicable.

4 (13) [~~46~~] "Department" means the Texas Department of
5 Licensing and Regulation.

6 (14) "Equipment" means an elevator, escalator,
7 chairlift, platform lift, automated people mover operated by
8 cables, or moving sidewalk, or related equipment.

9 (15) "Industrial facility" means a facility to which
10 access is primarily limited to employees or contractors working in
11 that facility.

12 (16) [~~47~~] "Qualified historic building or facility"
13 means a building or facility that is:

14 (A) listed in or eligible for listing in the
15 National Register of Historic Places; or

16 (B) designated as a Recorded Texas Historic
17 Landmark or State Archeological Landmark.

18 (17) [~~48~~] "Related equipment" means:

19 (A) automatic equipment that is used to move a
20 person in a manner that is similar to that of an elevator, an [~~ex~~]
21 escalator, a chairlift, a platform lift, an automated people mover
22 operated by cables, or [~~and includes~~] a moving sidewalk; and

23 (B) hoistways, pits, and machine rooms for
24 equipment.

25 (18) "Serious bodily injury" means a major impairment
26 to bodily function or serious dysfunction of any bodily organ or
27 part requiring medical attention.

1 (19) "Unit of equipment" means one elevator,
2 escalator, chairlift, platform lift, automated people mover
3 operated by cables, or moving sidewalk, or related equipment.

4 Sec. 754.0111. EXEMPTION. (a) This subchapter does not
5 apply to [~~an elevator, escalator, or related~~] equipment in a
6 private building for a labor union, trade association, private
7 club, or charitable organization that has two or fewer floors.

8 (b) This subchapter does not apply to an elevator located in
9 a single-family dwelling, except as provided by Section 754.0141.

10 Sec. 754.012. ELEVATOR ADVISORY BOARD. (a) The elevator
11 advisory board is composed of nine members appointed by the
12 presiding officer of the commission [~~commissioner~~] as follows:

13 (1) a representative of the insurance industry or a
14 certified elevator inspector;

15 (2) a representative of [~~elevator, escalator, and~~
16 ~~related~~] equipment constructors;

17 (3) a representative of owners or managers of a
18 building [~~buildings~~] having fewer than six stories and having [~~an~~
19 ~~elevator, an escalator, or related~~] equipment;

20 (4) a representative of owners or managers of a
21 building [~~buildings~~] having six stories or more and having [~~an~~
22 ~~elevator, an escalator, or related~~] equipment;

23 (5) a representative of independent [~~elevator,~~
24 ~~escalator, and related~~] equipment maintenance companies;

25 (6) a representative of [~~elevator, escalator, and~~
26 ~~related~~] equipment manufacturers;

27 (7) a licensed or registered engineer or architect

1 ~~[representative of professional engineers or architects];~~

2 (8) a public member; and

3 (9) a public member with a physical disability.

4 (b) Board members serve at the will of the commission
5 ~~[commissioner]~~.

6 (c) The presiding officer of the commission ~~[commissioner]~~
7 shall appoint a presiding officer of the board to serve for two
8 years.

9 (d) The board shall meet at least twice each calendar year.

10 (e) A board member serves without compensation but is
11 entitled to reimbursement for travel as provided for in the General
12 Appropriations Act ~~[and other necessary expenses incurred in~~
13 ~~performing duties under this subchapter]~~.

14 Sec. 754.013. BOARD DUTIES. To protect public safety and to
15 identify and correct potential hazards, the board shall advise the
16 commission ~~[commissioner]~~ on:

17 (1) the adoption of appropriate standards for the
18 installation, alteration, operation, and inspection of ~~[elevators,~~
19 ~~escalators, and related]~~ equipment;

20 (2) the status of ~~[elevators, escalators, and related]~~
21 equipment used by the public in this state; ~~[and]~~

22 (3) sources of information relating to equipment
23 safety;

24 (4) public awareness programs related to elevator
25 safety, including programs for sellers and buyers of single-family
26 dwelling with elevators, chairlifts, or platform lifts; and

27 (5) any other matter considered relevant by the

1 commission [~~commissioner~~].

2 Sec. 754.014. STANDARDS ADOPTED BY COMMISSION
3 [~~COMMISSIONER~~]. (a) The commission [~~commissioner~~] shall adopt
4 standards for the installation, maintenance, alteration,
5 operation, and inspection of [~~elevators, escalators, and related~~]
6 equipment used by the public in:

7 (1) buildings owned or operated by the state, a
8 state-owned institution or agency, or a political subdivision of
9 the state; and

10 (2) buildings that contain [~~an elevator, an escalator,~~
11 ~~or related~~] equipment that is open to the general public, including
12 a hotel, motel, apartment house, boardinghouse, church, office
13 building, shopping center, or other commercial establishment.

14 (b) Standards adopted by the commission [~~commissioner~~] may
15 not contain requirements in addition to the requirements in the
16 ASME Code A17.1, [~~or~~] ASME Code A17.3, ASME Code A18.1, or ASCE Code
17 21. The standards must allow alteration of existing equipment if
18 the alteration does not diminish the safety of the equipment below
19 the level required by this subchapter at the time of alteration.

20 (c) Standards adopted by the commission [~~commissioner~~] must
21 require [~~elevators, escalators, and related~~] equipment to comply
22 with the installation requirements of the [~~following, whichever is~~
23 ~~the least restrictive.~~

24 [~~(1) the~~] ASME Code A17.1, ASME Code A18.1, or ASCE
25 Code 21 that was in effect and applicable on the date of
26 installation of the [~~elevators, escalators, and related~~]
27 equipment[~~, or~~

1 ~~[(2) an applicable municipal ordinance governing the~~
2 ~~installation of elevators, escalators, and related equipment that~~
3 ~~was in effect on the date of installation].~~

4 (d) Standards adopted by the commission ~~[commissioner]~~ must
5 require ~~[elevators, escalators, and related]~~ equipment to comply
6 with the installation requirements of the ~~[1994]~~ ASME Code A17.3
7 that contains minimum safety standards for all ~~[elevators,~~
8 ~~escalators, and related]~~ equipment, regardless of the date of
9 installation.

10 (e) The executive director ~~[On written request, the~~
11 ~~commissioner]~~ shall grant a delay for compliance with the
12 applicable ASME Code A17.1, ~~[or the 1994]~~ ASME Code A17.3, or ASME
13 Code A18.1 until a specified time if compliance is not readily
14 achievable, as that phrase is defined in the Americans with
15 Disabilities Act (42 U.S.C. Section 12101 et seq.), or regulations
16 adopted under that Act. The accumulated total time of all delays
17 may not exceed three years, except as provided by Subsection (f) or
18 as allowed in the discretion of the executive director.

19 (f) The executive director ~~[On written request, the~~
20 ~~commissioner]~~ shall grant a delay until September 1, 2005, for
21 compliance with the requirements for door restrictors or
22 firefighter's service in the ~~[1994]~~ ASME Code A17.3 if those
23 requirements were not included in the ASME Code A17.1 that was in
24 effect on the date of installation ~~[of the elevator, escalator, or~~
25 ~~related equipment]~~ and the ~~[that]~~ equipment was not subsequently
26 installed ~~[by an owner of the elevator, escalator, or related~~
27 ~~equipment].~~

1 (g) The executive director [~~commissioner~~] may grant a
2 waiver of compliance from an applicable code requirement [~~with the~~
3 ~~applicable ASME Code A17.1 or the 1994 ASME Code A17.3~~] if the
4 executive director [~~commissioner~~] finds that:

5 (1) the building in which the [~~elevator, escalator, or~~
6 ~~related~~] equipment is located is a qualified historic building or
7 facility or the noncompliance is due to structural components of
8 the building; [~~and~~]

9 (2) noncompliance will not constitute a significant
10 threat to passenger safety; and

11 (3) noncompliance, with adequate alternative
12 safeguards, will not constitute a significant threat to worker
13 safety.

14 (h) The executive director shall grant a waiver of
15 compliance if the noncompliance resulted from compliance with a
16 municipal equipment construction code at the time of the original
17 installation and the noncompliance does not pose imminent and
18 significant danger. The executive director [~~commissioner~~] may
19 grant a waiver of compliance with the firefighter's service
20 provisions of the ASME Code A17.1 or the [~~1994~~] ASME Code A17.3 in
21 an elevator that exclusively serves a vehicle parking garage in a
22 building that:

23 (1) is used only for parking;

24 (2) is constructed of noncombustible materials; and

25 (3) is not greater than 75 feet in height.

26 (i) This subchapter does not apply to [~~an elevator, an~~
27 ~~escalator, or related~~] equipment in an industrial facility, or in a

1 grain silo, radio antenna, bridge tower, underground facility, or
2 dam, to which access is limited primarily [~~principally~~] to
3 employees of or working in that facility or structure.

4 (j) [~~The commissioner may charge a reasonable fee as set by~~
5 ~~the commission for an application for waiver or delay.~~] One
6 application for a waiver or delay may contain all requests related
7 to a unit of equipment [~~particular building~~]. A delay may not be
8 granted indefinitely but must be granted for [~~to~~] a specified time
9 not to exceed three years.

10 (k) For purposes of this section, the date of installation
11 or alteration of equipment is the date that the owner of the real
12 property entered into a contract for the installation or alteration
13 of the [~~purchase of the elevators, escalators, or related~~]
14 equipment. If that date cannot be established, the date of
15 installation or alteration is the date of issuance of the municipal
16 building permit under which the [~~elevators, escalators, or related~~]
17 equipment was installed or altered [~~constructed~~] or, if a municipal
18 building permit was not issued, the date that electrical
19 consumption began for the construction of the building in which the
20 [~~elevators, escalators, or related~~] equipment was installed.

21 Sec. 754.0141. STANDARDS FOR EQUIPMENT IN SINGLE-FAMILY
22 DWELLINGS; REQUIRED INFORMATION. (a) Elevators, chairlifts, or
23 platform lifts installed in a single-family dwelling on or after
24 January 1, 2004, must comply with the ASME Code A17.1 or A18.1, as
25 applicable, and must be inspected by a QEI-1 certified inspector
26 after the installation is complete. The inspector shall provide
27 the dwelling owner a copy of the inspection report.

1 (b) The commission shall, before January 1, 2004, adopt
2 rules containing minimum safety standards that must be used by
3 QEI-1 certified inspectors when inspecting elevators, chairlifts,
4 and platform lifts installed in single-family dwellings.

5 (c) A municipality may withhold a certificate of occupancy
6 for a dwelling or for the installation of the elevator or chairlift
7 until the owner provides a copy of the QEI-1 inspection report to
8 the municipality.

9 (d) A contractor is not required to report to the department
10 any information concerning equipment in a single-family dwelling or
11 the contractor's work on the equipment.

12 (e) On completing installation of equipment in a
13 single-family dwelling, a contractor shall provide the dwelling
14 owner with relevant information, in writing, about use, safety, and
15 maintenance of the equipment, including the advisability of having
16 the equipment periodically and timely inspected by a QEI-1
17 certified inspector.

18 (f) An inspection by a QEI-1 certified inspector of
19 equipment in a single-family dwelling may be performed only at the
20 request and with the consent of the owner. The owner of a
21 single-family dwelling is not subject to Section 754.022, 754.023,
22 or 754.024.

23 Sec. 754.015. RULES. (a) The commission [~~commissioner~~] by
24 rule shall provide for:

25 (1) an annual [~~the~~] inspection and certification of
26 the [~~once each calendar year of elevators, escalators, and related~~]
27 equipment covered by standards adopted under this subchapter;

1 (2) ~~[the]~~ enforcement of those standards;

2 (3) registration ~~[the certification]~~ of qualified
3 ~~[persons as]~~ inspectors and contractors ~~[for the purposes of this~~
4 ~~subchapter]; [and]~~

5 (4) the form of ~~[the]~~ inspection documents, contractor
6 reports, [report] and certificates ~~[certificate]~~ of compliance;

7 (5) notification to building owners, architects, and
8 other building industry professionals regarding the necessity of
9 annually inspecting equipment;

10 (6) approval of continuing education programs for
11 registered OEI-1 certified inspectors; and

12 (7) standards of conduct for individuals who are
13 registered under this subchapter.

14 (b) The commission ~~[commissioner]~~ by rule may not ~~[require~~
15 ~~that]~~:

16 (1) require inspections of equipment to ~~[inspection]~~
17 be made more often than every 12 months, except as provided by
18 Subsection (c) ~~[once per year of elevators, escalators, and related~~
19 ~~equipment];~~

20 (2) require persons to post a bond or furnish
21 insurance or to have minimum experience or education as a condition
22 of certification or registration; [and]

23 (3) require building owners to submit to the
24 department proposed plans for equipment installation or
25 alteration; or

26 (4) prohibit a OEI-1 certified inspector who is
27 registered with the department from inspecting equipment.

1 (c) The commission by rule may require a reinspection or
2 recertification of equipment if the equipment has been altered and
3 poses a significant threat to passenger or worker safety or if an
4 annual inspection report indicates an existing violation has
5 continued longer than permitted in a delay granted by the executive
6 director.

7 (d) The executive director may charge a reasonable fee as
8 set by the commission for:

9 (1) registering or renewing registration of an
10 inspector;

11 (2) registering or renewing registration of a
12 contractor;

13 (3) applying for a certificate of compliance;

14 (4) filing an inspection report as required by Section
15 754.019(a)(3), 30 days or more after the date the report is due, for
16 each day the report remains not filed after the date the report is
17 due;

18 (5) applying for a waiver or delay; and

19 (6) attending a continuing education program
20 sponsored by the department for registered OEI-1 inspectors
21 [inspection reports or certificates of compliance be placed in
22 locations other than one provided in Section 754.019(4)].

23 Sec. 754.016. INSPECTION REPORTS [REPORT] AND CERTIFICATES
24 [CERTIFICATE] OF COMPLIANCE. (a) Inspection reports [An
25 inspection report] and certificates [a certificate] of compliance
26 required under this subchapter must cover all [elevators,
27 escalators, and related] equipment in a building or structure

1 appurtenant to the building, including a parking facility, that are
2 owned by the same person or persons. ~~[There shall be only one~~
3 ~~inspection report and one certificate of compliance for each~~
4 ~~building.]~~

5 (b) An inspector shall date and sign an inspection report
6 and shall issue the report to the building owner not later than the
7 10th calendar day after the date of inspection. ~~[The inspection~~
8 ~~report shall be on forms designated by the commissioner.]~~

9 (c) The executive director ~~[commissioner]~~ shall date and
10 sign a certificate of compliance and shall issue the certificate to
11 the building owner. The certificate of compliance shall state:

12 (1) that the ~~[elevators, escalators, and related]~~
13 equipment has ~~[have]~~ been inspected by a certified inspector and
14 found by the inspector to be in compliance, except for any delays or
15 waivers granted by the executive director ~~[commissioner]~~ and stated
16 in the certificate;

17 (2) the date of the last inspection and the due date
18 for the next inspection; and

19 (3) contact information at the department to report a
20 violation of this subchapter.

21 (d) The commission by rule shall:

22 (1) specify what information must be contained in a
23 certificate of compliance;

24 (2) describe the procedure by which a certificate of
25 compliance is issued;

26 (3) require that a certificate of compliance related
27 to an elevator be posted in a publicly visible area of the building;

1 and

2 (4) determine what constitutes a "publicly visible
3 area" under Subdivision (3).

4 Sec. 754.017. CERTIFIED INSPECTORS. (a) In order to
5 inspect equipment, an individual must:

6 (1) be registered [~~An inspector must register~~] with
7 the department;

8 (2) attend educational programs approved by the
9 department;

10 (3) [and] be certified as a OEI-1 [~~an ASME-OEI-1~~]
11 inspector by an organization accredited by the American Society of
12 Mechanical Engineers; and

13 (4) pay all applicable fees. [~~Any certification~~
14 ~~charges or fees shall be paid by the inspector.~~]

15 (b) [~~The commissioner may not by rule prohibit an ASME-OEI-1~~
16 ~~certified inspector who is registered with the department from~~
17 ~~inspecting under this subchapter an elevator, an escalator, or~~
18 ~~related equipment.~~] A person assisting a certified inspector and
19 working under the direct, on-site supervision of the inspector is
20 not required to be [ASME-OEI-1] certified.

21 (c) A registration expires on the first anniversary of the
22 date of issuance.

23 (d) A certified inspector may not be required to attend more
24 than seven hours of continuing education during each licensing
25 period. [~~The commissioner may charge a \$15 fee to certified~~
26 ~~inspectors for registering with the department.~~]

27 Sec. 754.0171. CONTRACTOR REGISTRATION. (a) A person may

1 not install, repair, or maintain equipment without registering as a
2 contractor with the department as required by this subchapter.

3 (b) A contractor shall submit an application for
4 registration and pay appropriate fees to the department. The
5 registration application form may require information concerning
6 the background, experience, or identity of the applicant.

7 (c) A registration expires on the first anniversary of the
8 date of issuance.

9 (d) A person registering as a contractor under this
10 subchapter shall submit to the department an initial report, not
11 later than the 60th day following the application date, containing:

12 (1) the street address of each building or location at
13 which the person performed installation, repair, alteration, or
14 maintenance of equipment for the previous two years; and

15 (2) the name and mailing address of the building
16 owner.

17 (e) After the initial report required by Subsection (d), a
18 contractor registered as required by this subchapter shall submit
19 to the department a quarterly report containing:

20 (1) the street address of each building or location at
21 which the contractor performed installation, repair, alteration,
22 or maintenance of equipment not reported in the contractor's
23 initial report to the department under Subsection (d); and

24 (2) the name and mailing address of the building
25 owner.

26 (f) Installation, repair, alteration, and maintenance
27 standards for contractors must be consistent with ASME Code A17.1,

1 ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

2 Sec. 754.0172. INSPECTION FEE. ~~[(a) A person inspecting~~
3 ~~an elevator, an escalator, or related equipment under this~~
4 ~~subchapter may not charge more than \$65 per elevator cab or per~~
5 ~~escalator for each inspection.~~

6 ~~[(b)]~~ The amount charged for an inspection or the
7 performance of an inspection of equipment under this subchapter may
8 not be contingent on the existence of a maintenance contract
9 between the person performing the inspection and any other person.

10 Sec. 754.018. POWERS OF MUNICIPALITIES. Subject to Section
11 754.014(h), if ~~[If]~~ a municipality operates a program for the
12 installation, maintenance, alteration, inspection, or ~~[and]~~
13 certification of ~~[elevators, escalators, and related]~~ equipment,
14 this subchapter shall not apply to the ~~[elevators, escalators, and~~
15 ~~related]~~ equipment in that municipality, provided that the
16 standards of installation, maintenance, alteration, inspection,
17 and certification are at least equivalent to ~~[no less stringent~~
18 ~~than]~~ those contained in this subchapter.

19 Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) The
20 owner of real property on which ~~[an elevator, an escalator, or~~
21 ~~related]~~ equipment covered by this subchapter is located shall:

22 (1) have the ~~[elevator, escalator, or related]~~
23 equipment inspected annually by a ~~[an ASME-QEI-1]~~ certified
24 inspector ~~[in accordance with the commissioner's rules];~~

25 (2) obtain an inspection report from the inspector
26 evidencing that all ~~[elevators, escalators, and related]~~ equipment
27 in a building on the real property was ~~[were]~~ inspected in

1 accordance with this subchapter and rules adopted under this
2 subchapter;

3 (3) file with the executive director [~~commissioner a~~
4 ~~copy of~~] each inspection report, and all applicable fees, [~~and a \$20~~
5 ~~filing fee for each report, plus \$5 for each elevator, escalator, or~~
6 ~~related equipment~~] not later than the 60th day after the date on
7 which an inspection is made under this subchapter;

8 (4) display the certificate of compliance:

9 (A) in a publicly visible area of the building,
10 as determined by commission rule under Section 754.016, [~~the~~
11 ~~elevator mechanical room~~] if the certificate relates to an
12 elevator;

13 (B) in the escalator box if the certificate
14 relates to an escalator; or

15 (C) in a place designated by the executive
16 director [~~commissioner~~] if the certificate relates to [~~related~~
17 equipment other than an elevator or escalator]; and

18 (5) display the inspection report at the locations
19 designated in Subdivision (4) until a certificate of compliance is
20 issued [~~by the commissioner~~].

21 (b) When an inspection report is filed [~~with the~~
22 ~~commissioner~~], the owner shall submit to the executive director, as
23 applicable [~~commissioner~~]:

24 (1) verification that any deficiencies in the
25 inspector's report have been remedied or that a bona fide contract
26 to remedy the deficiencies has been entered into; or

27 (2) any application for delay or waiver of an

1 applicable standard.

2 (c) ~~[An inspection must be made not later than 18 months~~
3 ~~after the previous calendar year's inspection. This subsection~~
4 ~~does not affect the requirement that elevators, escalators, or~~
5 ~~related equipment be inspected at least once each calendar year.~~

6 ~~[(d)]~~ For the purpose of determining timely filing under
7 Subsection (a)(3) and Section 754.016(b), an inspection report and
8 filing fees ~~[fee]~~ are considered filed on the earlier of:

- 9 (1) the date of personal delivery;
10 (2) the date of postmark ~~[mailing]~~ by United States
11 mail if properly addressed to the executive director; or
12 (3) the date of deposit with a commercial courier
13 service, if properly addressed to the executive director
14 ~~[commissioner].~~

15 (d) ~~[(e)]~~ ~~If the inspection report and fee required by~~
16 ~~Subsection (a)(3) are not timely filed, the commissioner may charge~~
17 ~~the owner of the real property on which the elevator, escalator, or~~
18 ~~related equipment is located an additional \$100 fee for late~~
19 ~~filing.~~

20 ~~[(f)]~~ ~~The commissioner may not require that an inspection~~
21 ~~report or certificate of compliance be placed inside or immediately~~
22 ~~outside an elevator cab or escalator or in the lobby or hallways of~~
23 ~~a building.~~

24 ~~[(g)]~~ A fee may not be charged or collected for a
25 certificate of compliance for an institution of higher education as
26 defined in Section 61.003, Education Code.

27 (e) An owner shall report to the department each accident

1 involving equipment not later than 72 hours following the accident.

2 Sec. 754.020. CHIEF ELEVATOR INSPECTOR [~~DEPOSIT OF FEES~~].

3 The executive director may appoint a chief elevator inspector to
4 administer the equipment inspection and registration program. The
5 chief elevator inspector:

6 (1) may not have a financial or commercial interest in
7 the manufacture, maintenance, repair, inspection, installation, or
8 sale of equipment; and

9 (2) must possess a OEI-1 certification or obtain the
10 certification within six months after becoming chief inspector
11 [Fees collected under this subchapter shall be deposited to the
12 credit of an account in the general revenue fund that may be used by
13 the commissioner only to administer and enforce this subchapter and
14 to reimburse expenses of board members provided by this
15 subchapter].

16 Sec. 754.021. LIST OF REGISTERED INSPECTORS AND CONTRACTORS
17 [, PERSONNEL]. The executive director shall [commissioner may]:

18 (1) compile a list of [~~ASME-OEI-1~~] certified
19 inspectors and contractors who are registered with the department
20 [to perform an inspection under this subchapter]; and

21 (2) employ personnel who are [~~as~~] necessary to enforce
22 this subchapter.

23 Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the department
24 [commissioner] learns of a situation of noncompliance under Section
25 754.019, the department [commissioner] shall send notice by
26 certified mail of the noncompliance and the actions required to
27 remedy the noncompliance to the record owner of the real property on

which the equipment that is the subject of the noncompliance is located.

Sec. 754.023. INVESTIGATION; REGISTRATION ~~[LICENSE]~~ PROCEEDINGS; INJUNCTION; EMERGENCY ORDERS. (a) If there is good cause for the executive director ~~[commissioner]~~ to believe that ~~[an elevator, an escalator, or related]~~ equipment on real property poses an imminent and significant danger ~~[is dangerous]~~ or that an accident involving ~~[an elevator, an escalator, or related]~~ equipment occurred on the property and serious bodily injury or property damage resulted, the executive director ~~[the commissioner]~~ may enter the property during regular business hours after notice to the owner, operator, or person in charge of the property to inspect the ~~[elevator, escalator, or related]~~ equipment or investigate the danger or accident at no cost to the owner.

(b) The executive director ~~[commissioner]~~ may enter real property during regular business hours after notice to the owner, operator, or person in charge of the property to verify, at no cost to the owner, whether an inspection report or certificate of compliance has been displayed as required under Section 754.019(a).

(c) The commission ~~[commissioner]~~ may deny, suspend, or revoke a ~~[the]~~ registration under this subchapter and may assess an administrative penalty ~~[of any ASME-QEI-1 certified inspector]~~ for:

- (1) obtaining registration with the executive director ~~[commissioner]~~ by fraud or false representation;
- (2) falsifying a ~~[any inspection]~~ report submitted to the executive director ~~[commissioner]~~; or

1 (3) violating this subchapter or a rule adopted under
2 this subchapter.

3 (d) Proceedings for the denial, suspension, or revocation
4 of a registration and appeals from those proceedings are governed
5 by Chapter 2001, Government Code.

6 (e) The executive director [~~commissioner~~] is entitled to
7 appropriate injunctive relief to prevent a violation or threatened
8 violation of this subchapter or a rule adopted under this
9 subchapter.

10 (f) [~~(e)~~] The executive director [~~commissioner~~] may bring
11 suit in a district court in Travis County or in the county in which
12 the violation or threatened violation occurs. If requested, the
13 attorney general shall represent the executive director
14 [~~commissioner~~] in the suit.

15 (g) The executive director may issue an emergency order as
16 necessary to enforce this subchapter if the executive director
17 determines that an emergency exists requiring immediate action to
18 protect the public health and safety.

19 (h) The executive director may issue an emergency order with
20 simultaneous notice and without hearing or with the notice and
21 opportunity for hearing practicable under the circumstances.

22 (i) If an emergency order is issued under this section
23 without a hearing, the executive director shall set the time and
24 place for a hearing to affirm, modify, or set aside the emergency
25 order not later than the 10th day after the date the order was
26 issued.

27 (j) An emergency order may direct a building owner or

1 manager to disconnect power to or lock out equipment if:

2 (1) the department determines imminent and
3 significant danger to passenger safety exists if action is not
4 taken immediately and reasonable effort has been made for voluntary
5 compliance by notification to the building owner or manager of the
6 danger before the issuance of an emergency order; or

7 (2) an annual inspection has not been performed in
8 more than two years and:

9 (A) the department gives the building owner or
10 manager, or the agent of the building owner or manager, 60 days'
11 written notice by certified mail directing the equipment to be
12 inspected according to this subchapter; and

13 (B) after the expiration of the notice period
14 under Paragraph (A), the department gives the building owner or
15 manager, or the agent of the building owner or manager, written
16 notice by certified mail stating that an order to disconnect power
17 or lock out equipment will be made after the seventh day after the
18 date notice is delivered.

19 (k) If an emergency order to disconnect power or lock out
20 equipment is issued, the building owner or manager may have the
21 power reconnected or the equipment unlocked only if:

22 (1) a registered inspector or contractor or a
23 department representative has filed a written form with the
24 department verifying the imminent and significant danger has been
25 removed by repair, replacement, or other means; and

26 (2) the building owner, before the reconnection of
27 power or unlocking of equipment, reimburses the department for all

1 expenses incurred relating to the disconnection of power or
2 lockout.

3 (l) The executive director or the executive director's
4 designee may allow delayed payment if the building owner or manager
5 commits in writing to pay the department for the expenses required
6 by Subsection (k) not later than the 10th day after the date power
7 is reconnected or equipment is unlocked.

8 (m) If an emergency order to disconnect power or lock out
9 equipment is issued and the building owner later notifies the
10 department that the imminent and significant danger no longer
11 exists, the executive director or the executive director's designee
12 shall, after the requirements of Subsection (k) are satisfied,
13 promptly issue written permission to reconnect power or unlock the
14 equipment and notify the owner.

15 Sec. 754.024. CRIMINAL PENALTY. (a) A person commits an
16 offense if the person receives notice of noncompliance under
17 Section 754.022 and the person has not remedied the noncompliance
18 or entered into a bona fide contract to remedy the noncompliance
19 before the 61st day after the date on which the notice is received.

20 (b) An offense under this section is a Class C misdemeanor.

21 (c) Each day of an offense under Subsection (a) constitutes
22 a separate offense.

23 Sec. 754.025. APPLICATION OF CERTAIN LAW. Chapter 53,
24 Occupations Code, applies to a registration under this subchapter.

25 SECTION 2. Not later than December 1, 2003, the Texas
26 Commission of Licensing and Regulation shall adopt the rules
27 required by Section 754.016 and Subsection (a), Section 754.019,

1 Health and Safety Code, as amended by this Act.

2 SECTION 3. The changes in law made by this Act apply only to
3 an inspection report or certificate of compliance issued on or
4 after the effective date of this Act. An inspection report or
5 certificate issued before the effective date of this Act is covered
6 by the law in effect when the report or certificate was issued and
7 is valid until the renewal date of that report or certificate under
8 the terms of the former law, and the former law is continued in
9 effect for that purpose. On renewal, an inspection report or
10 certificate is subject to Chapter 754, Health and Safety Code, as
11 amended by this Act.

12 SECTION 4. (a) This Act takes effect September 1, 2003,
13 except that:

14 (1) a contractor is not required to be registered
15 under Section 754.0171, Health and Safety Code, as amended by this
16 Act, before January 1, 2004; and

17 (2) an escalator constructed before September 1,
18 2003, is not required to comply with step/skirt index requirements
19 imposed under the 2002 American Society of Mechanical Engineers
20 Safety Code for Elevators and Escalators A17.3 before September 1,
21 2009.

22 (b) A member of the elevator advisory board serving on the
23 effective date of this Act continues to serve until removed by the
24 governor or until the member's successor is appointed by the
25 governor.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 26, 2003

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1090 by Carona (relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The Texas Department of Licensing and Regulation would be required to register elevator contractors and approve continuing education courses, and would require contractors to provide reports on serviced equipment. The agency estimates a population of approximately 45 individuals. It is assumed the agency can re-allocate its current resources in order to absorb any costs associated with the bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: JK, JRO, RT, RB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 25, 2003

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1090 by Carona (Relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1090, As Introduced: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2003
2004	\$59,400	(\$59,400)	1.0
2005	\$46,611	(\$46,611)	1.0
2006	\$46,611	(\$46,611)	1.0
2007	\$46,611	(\$46,611)	1.0
2008	\$46,611	(\$46,611)	1.0

Fiscal Analysis

The bill would authorize the Texas Department of Licensing and Regulation to register contractors and license elevator mechanics and cab renovators. It would authorize the agency to write rules that establish standards, set fees for registrants and licensees, and issue certificates of compliance for equipment. It would also require the agency to approve continuing education courses.

The bill would take effect September 1, 2003.

Methodology

The Texas Department of Licensing and Regulation expects a licensee population of approximately 1,275. The agency would need a total of one additional FTE to administer the program. This total would include one-half Administrative Technician III FTE (\$16,633 for salary and benefits) to review and process applications for licensure, registration, and certification of compliance and to review work reports submitted by contractors and compare addresses to an existing database. Also included would be one-quarter Investigator IV FTE (\$10,579 for salary and benefits) to investigate complaints and one-quarter Legal Assistant IV FTE (\$9,964 for salary and benefits) to perform preliminary reviews of incoming complaints and to prepare legal documents. It is assumed the agency can absorb additional administrative functions such as processing mail and reviewing applications with existing staff.

The agency also indicates it would require \$2,100 in professional services to image an additional 35,000 documents, \$1,600 for the travel of four additional advisory board members, and \$1,235 for additional background checks. For travel, equipment, and other operating expenses, the agency would need \$17,289 in fiscal year 2004 and \$7,500 in each subsequent year.

It is assumed the agency would raise fees from vehicle repossession industry licensees sufficient to cover all costs associated with the program.

Technology

The Texas Department of Licensing and Regulation would require \$2,300 for a computer and related equipment for an additional FTE. The agency would also require \$5,000 to purchase an additional disk drive for storage of documents in the imaging system.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 452 Department of Licensing and Regulation

LBB Staff: JK, JRO, RT, RB

HOUSE COMMITTEE REPORT

03 MAY -3 AM 1:00

HOUSE OF REPRESENTATIVES

1st Printing

By: Carona
(Geren)

S.B. No. 1090

A BILL TO BE ENTITLED

AN ACT

relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 754, Health and Safety Code, is amended to read as follows:

SUBCHAPTER B. INSPECTION, ~~[AND]~~ CERTIFICATION, AND REGISTRATION

Sec. 754.011. DEFINITIONS. In this subchapter:

(1) "Acceptance inspection" means an inspection performed at the completion of the initial installation or alteration of equipment and in accordance with the applicable ASME Code A17.1.

(2) "Accident" means an event involving equipment that results in death or serious bodily injury to a person.

(3) "Alteration" means a change in or modernization of existing equipment. The term does not include maintenance, repair, replacement, or a cosmetic change that does not affect the operational safety of the equipment or diminish the safety of the equipment below the level required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, at the time of alteration.

(4) "Annual inspection" means an inspection of

1 equipment performed in a 12-month period in accordance with the
2 applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or
3 ASCE Code 21. The term includes an acceptance inspection performed
4 within that period.

5 (5) "ASCE Code 21" means the American Society of Civil
6 Engineers Code 21 for people movers operated by cables.

7 (6) "ASME Code A17.1" means the American Society of
8 Mechanical Engineers Safety Code for Elevators and Escalators
9 A17.1.

10 (6-a) "Executive director" means the executive
11 director of the department.

12 (7) [~~4~~] "ASME Code A17.3" means the 2002 American
13 Society of Mechanical Engineers Safety Code for Elevators and
14 Escalators A17.3.

15 (8) "ASME Code A18.1" means the American Society of
16 Mechanical Engineers Safety Code for Platform Lifts and Stairway
17 Chairlifts A18.1.

18 (9) [~~3~~] "Board" means the elevator advisory board.

19 (10) [~~4~~] "Commission" means the Texas Commission of
20 Licensing and Regulation.

21 (11) [~~5~~] "Commissioner" means the commissioner of
22 licensing and regulation.

23 (12) "Contractor" means a person engaged in the
24 installation, repair, or maintenance of equipment. The term does
25 not include an employee of a contractor or a person engaged in
26 cleaning or any other work performed on equipment that does not
27 affect the operational safety of the equipment or diminish the

1 safety of the equipment below the level required by the ASME Code
2 A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as
3 applicable.

4 (13) ~~[(6)]~~ "Department" means the Texas Department of
5 Licensing and Regulation.

6 (14) "Equipment" means an elevator, escalator,
7 chairlift, platform lift, automated people mover operated by
8 cables, or moving sidewalk, or related equipment.

9 (15) "Industrial facility" means a facility to which
10 access is primarily limited to employees or contractors working in
11 that facility.

12 (16) ~~[(7)]~~ "Qualified historic building or facility"
13 means a building or facility that is:

14 (A) listed in or eligible for listing in the
15 National Register of Historic Places; or

16 (B) designated as a Recorded Texas Historic
17 Landmark or State Archeological Landmark.

18 (17) ~~[(8)]~~ "Related equipment" means:

19 (A) automatic equipment that is used to move a
20 person in a manner that is similar to that of an elevator, an ~~or~~
21 escalator, a chairlift, a platform lift, an automated people mover
22 operated by cables, or ~~and includes~~ a moving sidewalk; and

23 (B) hoistways, pits, and machine rooms for
24 equipment.

25 (18) "Serious bodily injury" means a major impairment
26 to bodily function or serious dysfunction of any bodily organ or
27 part requiring medical attention.

1 (19) "Unit of equipment" means one elevator,
2 escalator, chairlift, platform lift, automated people mover
3 operated by cables, or moving sidewalk, or related equipment.

4 Sec. 754.0111. EXEMPTION. (a) This subchapter does not
5 apply to ~~[an elevator, escalator, or related]~~ equipment in a
6 private building for a labor union, trade association, private
7 club, or charitable organization that has two or fewer floors.

8 (b) This subchapter does not apply to an elevator located in
9 a single-family dwelling, except as provided by Section 754.0141.

10 Sec. 754.012. ELEVATOR ADVISORY BOARD. (a) The elevator
11 advisory board is composed of nine members appointed by the
12 presiding officer of the commission ~~[commissioner]~~ as follows:

13 (1) a representative of the insurance industry or a
14 certified elevator inspector;

15 (2) a representative of ~~[elevator, escalator, and~~
16 ~~related]~~ equipment constructors;

17 (3) a representative of owners or managers of a
18 building ~~[buildings]~~ having fewer than six stories and having ~~[an~~
19 ~~elevator, an escalator, or related]~~ equipment;

20 (4) a representative of owners or managers of a
21 building ~~[buildings]~~ having six stories or more and having ~~[an~~
22 ~~elevator, an escalator, or related]~~ equipment;

23 (5) a representative of independent ~~[elevator,~~
24 ~~escalator, and related]~~ equipment maintenance companies;

25 (6) a representative of ~~[elevator, escalator, and~~
26 ~~related]~~ equipment manufacturers;

27 (7) a licensed or registered engineer or architect

1 ~~[representative of professional engineers or architects];~~

2 (8) a public member; and

3 (9) a public member with a physical disability.

4 (b) Board members serve at the will of the commission
5 ~~[commissioner]~~.

6 (c) The presiding officer of the commission ~~[commissioner]~~
7 shall appoint a presiding officer of the board to serve for two
8 years.

9 (d) The board shall meet at least twice each calendar year.

10 (e) A board member serves without compensation but is
11 entitled to reimbursement for travel as provided for in the General
12 Appropriations Act ~~[and other necessary expenses incurred in~~
13 ~~performing duties under this subchapter]~~.

14 Sec. 754.013. BOARD DUTIES. To protect public safety and to
15 identify and correct potential hazards, the board shall advise the
16 commission ~~[commissioner]~~ on:

17 (1) the adoption of appropriate standards for the
18 installation, alteration, operation, and inspection of ~~[elevators,~~
19 ~~escalators, and related]~~ equipment;

20 (2) the status of ~~[elevators, escalators, and related]~~
21 equipment used by the public in this state; ~~[and]~~

22 (3) sources of information relating to equipment
23 safety;

24 (4) public awareness programs related to elevator
25 safety, including programs for sellers and buyers of single-family
26 dwelling with elevators, chairlifts, or platform lifts; and

27 (5) any other matter considered relevant by the

1 commission ~~[commissioner]~~.

2 Sec. 754.014. STANDARDS ADOPTED BY COMMISSION
3 ~~[COMMISSIONER]~~. (a) The commission ~~[commissioner]~~ shall adopt
4 standards for the installation, maintenance, alteration,
5 operation, and inspection of ~~[elevators, escalators, and related]~~
6 equipment used by the public in:

7 (1) buildings owned or operated by the state, a
8 state-owned institution or agency, or a political subdivision of
9 the state; and

10 (2) buildings that contain ~~[an elevator, an escalator,~~
11 ~~or related]~~ equipment that is open to the general public, including
12 a hotel, motel, apartment house, boardinghouse, church, office
13 building, shopping center, or other commercial establishment.

14 (b) Standards adopted by the commission ~~[commissioner]~~ may
15 not contain requirements in addition to the requirements in the
16 ASME Code A17.1, ~~[or]~~ ASME Code A17.3, ASME Code A18.1, or ASCE Code
17 21. The standards must allow alteration of existing equipment if
18 the alteration does not diminish the safety of the equipment below
19 the level required by this subchapter at the time of alteration.

20 (c) Standards adopted by the commission ~~[commissioner]~~ must
21 require ~~[elevators, escalators, and related]~~ equipment to comply
22 with the installation requirements of the ~~[following, whichever is~~
23 ~~the least restrictive.~~

24 ~~[(1) the]~~ ASME Code A17.1, ASME Code A18.1, or ASCE
25 Code 21 that was in effect and applicable on the date of
26 installation of the ~~[elevators, escalators, and related]~~
27 equipment~~[, or~~

1 ~~[(2) an applicable municipal ordinance governing the~~
2 ~~installation of elevators, escalators, and related equipment that~~
3 ~~was in effect on the date of installation].~~

4 (d) Standards adopted by the commission ~~[commissioner]~~ must
5 require ~~[elevators, escalators, and related]~~ equipment to comply
6 with the installation requirements of the [1994] ASME Code A17.3
7 that contains minimum safety standards for all ~~[elevators,~~
8 ~~escalators, and related]~~ equipment, regardless of the date of
9 installation.

10 (e) The executive director ~~[On written request, the~~
11 ~~commissioner]~~ shall grant a delay for compliance with the
12 applicable ASME Code A17.1, ~~[or the 1994]~~ ASME Code A17.3, or ASME
13 Code A18.1 until a specified time if compliance is not readily
14 achievable, as that phrase is defined in the Americans with
15 Disabilities Act (42 U.S.C. Section 12101 et seq.), or regulations
16 adopted under that Act. The accumulated total time of all delays
17 may not exceed three years, except as provided by Subsection (f) or
18 as allowed in the discretion of the executive director.

19 (f) The executive director ~~[On written request, the~~
20 ~~commissioner]~~ shall grant a delay until September 1, 2005, for
21 compliance with the requirements for door restrictors or
22 firefighter's service in the [1994] ASME Code A17.3 if those
23 requirements were not included in the ASME Code A17.1 that was in
24 effect on the date of installation ~~[of the elevator, escalator, or~~
25 ~~related equipment]~~ and the ~~[that]~~ equipment was not subsequently
26 installed ~~[by an owner of the elevator, escalator, or related~~
27 ~~equipment].~~

1 (g) The executive director [~~commissioner~~] may grant a
2 waiver of compliance from an applicable code requirement [~~with the~~
3 ~~applicable ASME Code A17.1 or the 1994 ASME Code A17.3~~] if the
4 executive director [~~commissioner~~] finds that:

5 (1) the building in which the [~~elevator, escalator, or~~
6 ~~related~~] equipment is located is a qualified historic building or
7 facility or the noncompliance is due to structural components of
8 the building; [~~and~~]

9 (2) noncompliance will not constitute a significant
10 threat to passenger safety; and

11 (3) noncompliance, with adequate alternative
12 safeguards, will not constitute a significant threat to worker
13 safety.

14 (h) The executive director shall grant a waiver of
15 compliance if the noncompliance resulted from compliance with a
16 municipal equipment construction code at the time of the original
17 installation and the noncompliance does not pose imminent and
18 significant danger. The executive director [~~commissioner~~] may
19 grant a waiver of compliance with the firefighter's service
20 provisions of the ASME Code A17.1 or the [~~1994~~] ASME Code A17.3 in
21 an elevator that exclusively serves a vehicle parking garage in a
22 building that:

23 (1) is used only for parking;

24 (2) is constructed of noncombustible materials; and

25 (3) is not greater than 75 feet in height.

26 (i) This subchapter does not apply to [~~an elevator, an~~
27 ~~escalator, or related~~] equipment in an industrial facility, or in a

1 grain silo, radio antenna, bridge tower, underground facility, or
2 dam, to which access is limited primarily [~~principally~~] to
3 employees of or working in that facility or structure.

4 (j) [~~The commissioner may charge a reasonable fee as set by~~
5 ~~the commission for an application for waiver or delay.~~] One
6 application for a waiver or delay may contain all requests related
7 to a unit of equipment [~~particular building~~]. A delay may not be
8 granted indefinitely but must be granted for [~~to~~] a specified time
9 not to exceed three years.

10 (k) For purposes of this section, the date of installation
11 or alteration of equipment is the date that the owner of the real
12 property entered into a contract for the installation or alteration
13 of the [~~purchase of the elevators, escalators, or related~~]
14 equipment. If that date cannot be established, the date of
15 installation or alteration is the date of issuance of the municipal
16 building permit under which the [~~elevators, escalators, or related~~]
17 equipment was installed or altered [~~constructed~~] or, if a municipal
18 building permit was not issued, the date that electrical
19 consumption began for the construction of the building in which the
20 [~~elevators, escalators, or related~~] equipment was installed.

21 Sec. 754.0141. STANDARDS FOR EQUIPMENT IN SINGLE-FAMILY
22 DWELLINGS; REQUIRED INFORMATION. (a) Elevators, chairlifts, or
23 platform lifts installed in a single-family dwelling on or after
24 January 1, 2004, must comply with the ASME Code A17.1 or A18.1, as
25 applicable, and must be inspected by a QEI-1 certified inspector
26 after the installation is complete. The inspector shall provide
27 the dwelling owner a copy of the inspection report.

1 (b) The commission shall, before January 1, 2004, adopt
2 rules containing minimum safety standards that must be used by
3 OEI-1 certified inspectors when inspecting elevators, chairlifts,
4 and platform lifts installed in single-family dwellings.

5 (c) A municipality may withhold a certificate of occupancy
6 for a dwelling or for the installation of the elevator or chairlift
7 until the owner provides a copy of the OEI-1 inspection report to
8 the municipality.

9 (d) A contractor is not required to report to the department
10 any information concerning equipment in a single-family dwelling or
11 the contractor's work on the equipment.

12 (e) On completing installation of equipment in a
13 single-family dwelling, a contractor shall provide the dwelling
14 owner with relevant information, in writing, about use, safety, and
15 maintenance of the equipment, including the advisability of having
16 the equipment periodically and timely inspected by a OEI-1
17 certified inspector.

18 (f) An inspection by a OEI-1 certified inspector of
19 equipment in a single-family dwelling may be performed only at the
20 request and with the consent of the owner. The owner of a
21 single-family dwelling is not subject to Section 754.022, 754.023,
22 or 754.024.

23 Sec. 754.015. RULES. (a) The commission [~~commissioner~~] by
24 rule shall provide for:

25 (1) an annual [~~the~~] inspection and certification of
26 the [~~once each calendar year of elevators, escalators, and related~~]
27 equipment covered by standards adopted under this subchapter;

(2) ~~[the]~~ enforcement of those standards;

(3) registration ~~[the certification]~~ of qualified ~~[persons as]~~ inspectors and contractors ~~[for the purposes of this subchapter]; [and]~~

(4) the form of ~~[the]~~ inspection documents, contractor reports, [report] and certificates ~~[certificate]~~ of compliance;

(5) notification to building owners, architects, and other building industry professionals regarding the necessity of annually inspecting equipment;

(6) approval of continuing education programs for registered OEI-1 certified inspectors; and

(7) standards of conduct for individuals who are registered under this subchapter.

(b) The commission ~~[commissioner]~~ by rule may not ~~[require that]:~~

(1) require inspections of equipment to [inspection] be made more often than every 12 months, except as provided by Subsection (c) ~~[once per year of elevators, escalators, and related equipment];~~

(2) require persons to post a bond or furnish insurance or to have minimum experience or education as a condition of certification or registration; [and]

(3) require building owners to submit to the department proposed plans for equipment installation or alteration; or

(4) prohibit a OEI-1 certified inspector who is registered with the department from inspecting equipment.

1 (c) The commission by rule may require a reinspection or
2 recertification of equipment if the equipment has been altered and
3 poses a significant threat to passenger or worker safety or if an
4 annual inspection report indicates an existing violation has
5 continued longer than permitted in a delay granted by the executive
6 director.

7 (d) The executive director may charge a reasonable fee as
8 set by the commission for:

9 (1) registering or renewing registration of an
10 inspector;

11 (2) registering or renewing registration of a
12 contractor;

13 (3) applying for a certificate of compliance;

14 (4) filing an inspection report as required by Section
15 754.019(a)(3), 30 days or more after the date the report is due, for
16 each day the report remains not filed after the date the report is
17 due;

18 (5) applying for a waiver or delay; and

19 (6) attending a continuing education program
20 sponsored by the department for registered OEI-1 inspectors
21 [inspection reports or certificates of compliance be placed in
22 locations other than one provided in Section 754.019(4)].

23 Sec. 754.016. INSPECTION REPORTS [~~REPORT~~] AND CERTIFICATES
24 [~~CERTIFICATE~~] OF COMPLIANCE. (a) Inspection reports [~~An~~
25 ~~inspection report~~] and certificates [~~a certificate~~] of compliance
26 required under this subchapter must cover all [~~elevators,~~
27 ~~escalators, and related~~] equipment in a building or structure

1 appurtenant to the building, including a parking facility, that are
2 owned by the same person or persons. ~~[There shall be only one~~
3 ~~inspection report and one certificate of compliance for each~~
4 ~~building.]~~

5 (b) An inspector shall date and sign an inspection report
6 and shall issue the report to the building owner not later than the
7 10th calendar day after the date of inspection. ~~[The inspection~~
8 ~~report shall be on forms designated by the commissioner.]~~

9 (c) The executive director ~~[commissioner]~~ shall date and
10 sign a certificate of compliance and shall issue the certificate to
11 the building owner. The certificate of compliance shall state:

12 (1) that the ~~[elevators, escalators, and related]~~
13 equipment has ~~[have]~~ been inspected by a certified inspector and
14 found by the inspector to be in compliance, except for any delays or
15 waivers granted by the executive director ~~[commissioner]~~ and stated
16 in the certificate;

17 (2) the date of the last inspection and the due date
18 for the next inspection; and

19 (3) contact information at the department to report a
20 violation of this subchapter.

21 (d) The commission by rule shall:

22 (1) specify what information must be contained in a
23 certificate of compliance;

24 (2) describe the procedure by which a certificate of
25 compliance is issued;

26 (3) require that a certificate of compliance related
27 to an elevator be posted in a publicly visible area of the building;

1 and

2 (4) determine what constitutes a "publicly visible
3 area" under Subdivision (3).

4 Sec. 754.017. CERTIFIED INSPECTORS. (a) In order to
5 inspect equipment, an individual must:

6 (1) be registered ~~[An inspector must register]~~ with
7 the department;

8 (2) attend educational programs approved by the
9 department;

10 (3) [and] be certified as a OEI-1 ~~[an ASME-OEI-1]~~
11 inspector by an organization accredited by the American Society of
12 Mechanical Engineers; and

13 (4) pay all applicable fees. ~~[Any certification~~
14 ~~charges or fees shall be paid by the inspector.]~~

15 (b) ~~[The commissioner may not by rule prohibit an ASME-OEI-1~~
16 ~~certified inspector who is registered with the department from~~
17 ~~inspecting under this subchapter an elevator, an escalator, or~~
18 ~~related equipment.]~~ A person assisting a certified inspector and
19 working under the direct, on-site supervision of the inspector is
20 not required to be [ASME-OEI-1] certified.

21 (c) A registration expires on the first anniversary of the
22 date of issuance.

23 (d) A certified inspector may not be required to attend more
24 than seven hours of continuing education during each licensing
25 period. ~~[The commissioner may charge a \$15 fee to certified~~
26 ~~inspectors for registering with the department.]~~

27 Sec. 754.0171. CONTRACTOR REGISTRATION. (a) A person may

1 not install, repair, or maintain equipment without registering as a
2 contractor with the department as required by this subchapter.

3 (b) A contractor shall submit an application for
4 registration and pay appropriate fees to the department. The
5 registration application form may require information concerning
6 the background, experience, or identity of the applicant.

7 (c) A registration expires on the first anniversary of the
8 date of issuance.

9 (d) A person registering as a contractor under this
10 subchapter shall submit to the department an initial report, not
11 later than the 60th day following the application date, containing:

12 (1) the street address of each building or location at
13 which the person performed installation, repair, alteration, or
14 maintenance of equipment for the previous two years; and

15 (2) the name and mailing address of the building
16 owner.

17 (e) After the initial report required by Subsection (d), a
18 contractor registered as required by this subchapter shall submit
19 to the department a quarterly report containing:

20 (1) the street address of each building or location at
21 which the contractor performed installation, repair, alteration,
22 or maintenance of equipment not reported in the contractor's
23 initial report to the department under Subsection (d); and

24 (2) the name and mailing address of the building
25 owner.

26 (f) Installation, repair, alteration, and maintenance
27 standards for contractors must be consistent with ASME Code A17.1,

1 ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

2 Sec. 754.0172. INSPECTION FEE. [~~(a)~~ ~~A person inspecting~~
3 ~~an elevator, an escalator, or related equipment under this~~
4 ~~subchapter may not charge more than \$65 per elevator cab or per~~
5 ~~escalator for each inspection.~~

6 [~~(b)~~] The amount charged for an inspection or the
7 performance of an inspection of equipment under this subchapter may
8 not be contingent on the existence of a maintenance contract
9 between the person performing the inspection and any other person.

10 Sec. 754.018. POWERS OF MUNICIPALITIES. Subject to Section
11 754.014(h), if [~~if~~] a municipality operates a program for the
12 installation, maintenance, alteration, inspection, or [~~and~~]
13 certification of [~~elevators, escalators, and related~~] equipment,
14 this subchapter shall not apply to the [~~elevators, escalators, and~~
15 ~~related~~] equipment in that municipality, provided that the
16 standards of installation, maintenance, alteration, inspection,
17 and certification are at least equivalent to [~~no less stringent~~
18 ~~than~~] those contained in this subchapter.

19 Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) The
20 owner of real property on which [~~an elevator, an escalator, or~~
21 ~~related~~] equipment covered by this subchapter is located shall:

22 (1) have the [~~elevator, escalator, or related~~]
23 equipment inspected annually by a [~~an ASME-QEI-1~~] certified
24 inspector [~~in accordance with the commissioner's rules~~];

25 (2) obtain an inspection report from the inspector
26 evidencing that all [~~elevators, escalators, and related~~] equipment
27 in a building on the real property was [~~were~~] inspected in

1 accordance with this subchapter and rules adopted under this
2 subchapter;

3 (3) file with the executive director ~~[commissioner a~~
4 ~~copy of]~~ each inspection report, and all applicable fees, ~~[and a \$20~~
5 ~~filing fee for each report, plus \$5 for each elevator, escalator, or~~
6 ~~related equipment]~~ not later than the 60th day after the date on
7 which an inspection is made under this subchapter;

8 (4) display the certificate of compliance:

9 (A) in a publicly visible area of the building,
10 as determined by commission rule under Section 754.016, ~~[the~~
11 ~~elevator mechanical room]~~ if the certificate relates to an
12 elevator;

13 (B) in the escalator box if the certificate
14 relates to an escalator; or

15 (C) in a place designated by the executive
16 director ~~[commissioner]~~ if the certificate relates to ~~[related]~~
17 equipment other than an elevator or escalator; and

18 (5) display the inspection report at the locations
19 designated in Subdivision (4) until a certificate of compliance is
20 issued ~~[by the commissioner].~~

21 (b) When an inspection report is filed ~~[with the~~
22 ~~commissioner]~~, the owner shall submit to the executive director, as
23 applicable ~~[commissioner]:~~

24 (1) verification that any deficiencies in the
25 inspector's report have been remedied or that a bona fide contract
26 to remedy the deficiencies has been entered into; or

27 (2) any application for delay or waiver of an

1 applicable standard.

2 (c) ~~[An inspection must be made not later than 18 months~~
3 ~~after the previous calendar year's inspection. This subsection~~
4 ~~does not affect the requirement that elevators, escalators, or~~
5 ~~related equipment be inspected at least once each calendar year.~~

6 ~~[(d)]~~ For the purpose of determining timely filing under
7 Subsection (a)(3) and Section 754.016(b), an inspection report and
8 filing fees [fee] are considered filed on the earlier of:

- 9 (1) the date of personal delivery;
10 (2) the date of postmark [mailing] by United States
11 mail if properly addressed to the executive director; or
12 (3) the date of deposit with a commercial courier
13 service, if properly addressed to the executive director
14 [commissioner].

15 (d) ~~[(e)]~~ ~~If the inspection report and fee required by~~
16 ~~Subsection (a)(3) are not timely filed, the commissioner may charge~~
17 ~~the owner of the real property on which the elevator, escalator, or~~
18 ~~related equipment is located an additional \$100 fee for late~~
19 ~~filing.~~

20 ~~[(f)]~~ ~~The commissioner may not require that an inspection~~
21 ~~report or certificate of compliance be placed inside or immediately~~
22 ~~outside an elevator cab or escalator or in the lobby or hallways of~~
23 ~~a building.~~

24 ~~[(g)]~~ A fee may not be charged or collected for a
25 certificate of compliance for an institution of higher education as
26 defined in Section 61.003, Education Code.

27 (e) An owner shall report to the department each accident

1 involving equipment not later than 72 hours following the accident.

2 Sec. 754.020. CHIEF ELEVATOR INSPECTOR ~~[DEPOSIT OF FEES]~~.

3 The executive director may appoint a chief elevator inspector to
4 administer the equipment inspection and registration program. The
5 chief elevator inspector:

6 (1) may not have a financial or commercial interest in
7 the manufacture, maintenance, repair, inspection, installation, or
8 sale of equipment; and

9 (2) must possess a QEI-1 certification or obtain the
10 certification within six months after becoming chief inspector
11 ~~[Fees collected under this subchapter shall be deposited to the~~
12 ~~credit of an account in the general revenue fund that may be used by~~
13 ~~the commissioner only to administer and enforce this subchapter and~~
14 ~~to reimburse expenses of board members provided by this~~
15 ~~subchapter].~~

16 Sec. 754.021. LIST OF REGISTERED INSPECTORS AND CONTRACTORS
17 ~~[PERSONNEL]~~. The executive director shall ~~[commissioner may]~~:

18 (1) compile a list of ~~[ASME-QEI-1]~~ certified
19 inspectors and contractors who are registered with the department
20 ~~[to perform an inspection under this subchapter]; and~~

21 (2) employ personnel who are ~~[as]~~ necessary to enforce
22 this subchapter.

23 Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the department
24 ~~[commissioner]~~ learns of a situation of noncompliance under Section
25 754.019, the department ~~[commissioner]~~ shall send notice by
26 certified mail of the noncompliance and the actions required to
27 remedy the noncompliance to the record owner of the real property on

which the equipment that is the subject of the noncompliance is located.

Sec. 754.023. INVESTIGATION; REGISTRATION [~~LICENSE~~] PROCEEDINGS; INJUNCTION; EMERGENCY ORDERS. (a) If there is good cause for the executive director [~~commissioner~~] to believe that [~~an elevator, an escalator, or related~~] equipment on real property poses an imminent and significant danger [~~is dangerous~~] or that an accident involving [~~an elevator, an escalator, or related~~] equipment occurred on the property and serious bodily injury or property damage resulted, the executive director [~~the commissioner~~] may enter the property during regular business hours after notice to the owner, operator, or person in charge of the property to inspect the [~~elevator, escalator, or related~~] equipment or investigate the danger or accident at no cost to the owner.

(b) The executive director [~~commissioner~~] may enter real property during regular business hours after notice to the owner, operator, or person in charge of the property to verify, at no cost to the owner, whether an inspection report or certificate of compliance has been displayed as required under Section 754.019(a).

(c) The commission [~~commissioner~~] may deny, suspend, or revoke a [~~the~~] registration under this subchapter and may assess an administrative penalty [~~of any ASME-QEI-1 certified inspector~~] for:

(1) obtaining registration with the executive director [~~commissioner~~] by fraud or false representation;

(2) falsifying a [~~any inspection~~] report submitted to the executive director [~~commissioner~~]; or

1 (3) violating this subchapter or a rule adopted under
2 this subchapter.

3 (d) Proceedings for the denial, suspension, or revocation
4 of a registration and appeals from those proceedings are governed
5 by Chapter 2001, Government Code.

6 (e) The executive director [~~commissioner~~] is entitled to
7 appropriate injunctive relief to prevent a violation or threatened
8 violation of this subchapter or a rule adopted under this
9 subchapter.

10 (f) [~~(e)~~] The executive director [~~commissioner~~] may bring
11 suit in a district court in Travis County or in the county in which
12 the violation or threatened violation occurs. If requested, the
13 attorney general shall represent the executive director
14 [~~commissioner~~] in the suit.

15 (g) The executive director may issue an emergency order as
16 necessary to enforce this subchapter if the executive director
17 determines that an emergency exists requiring immediate action to
18 protect the public health and safety.

19 (h) The executive director may issue an emergency order with
20 simultaneous notice and without hearing or with the notice and
21 opportunity for hearing practicable under the circumstances.

22 (i) If an emergency order is issued under this section
23 without a hearing, the executive director shall set the time and
24 place for a hearing to affirm, modify, or set aside the emergency
25 order not later than the 10th day after the date the order was
26 issued.

27 (j) An emergency order may direct a building owner or

1 manager to disconnect power to or lock out equipment if:

2 (1) the department determines imminent and
3 significant danger to passenger safety exists if action is not
4 taken immediately and reasonable effort has been made for voluntary
5 compliance by notification to the building owner or manager of the
6 danger before the issuance of an emergency order; or

7 (2) an annual inspection has not been performed in
8 more than two years and:

9 (A) the department gives the building owner or
10 manager, or the agent of the building owner or manager, 60 days'
11 written notice by certified mail directing the equipment to be
12 inspected according to this subchapter; and

13 (B) after the expiration of the notice period
14 under Paragraph (A), the department gives the building owner or
15 manager, or the agent of the building owner or manager, written
16 notice by certified mail stating that an order to disconnect power
17 or lock out equipment will be made after the seventh day after the
18 date notice is delivered.

19 (k) If an emergency order to disconnect power or lock out
20 equipment is issued, the building owner or manager may have the
21 power reconnected or the equipment unlocked only if:

22 (1) a registered inspector or contractor or a
23 department representative has filed a written form with the
24 department verifying the imminent and significant danger has been
25 removed by repair, replacement, or other means; and

26 (2) the building owner, before the reconnection of
27 power or unlocking of equipment, reimburses the department for all

1 expenses incurred relating to the disconnection of power or
2 lockout.

3 (1) The executive director or the executive director's
4 designee may allow delayed payment if the building owner or manager
5 commits in writing to pay the department for the expenses required
6 by Subsection (k) not later than the 10th day after the date power
7 is reconnected or equipment is unlocked.

8 (m) If an emergency order to disconnect power or lock out
9 equipment is issued and the building owner later notifies the
10 department that the imminent and significant danger no longer
11 exists, the executive director or the executive director's designee
12 shall, after the requirements of Subsection (k) are satisfied,
13 promptly issue written permission to reconnect power or unlock the
14 equipment and notify the owner.

15 Sec. 754.024. CRIMINAL PENALTY. (a) A person commits an
16 offense if the person receives notice of noncompliance under
17 Section 754.022 and the person has not remedied the noncompliance
18 or entered into a bona fide contract to remedy the noncompliance
19 before the 61st day after the date on which the notice is received.

20 (b) An offense under this section is a Class C misdemeanor.

21 (c) Each day of an offense under Subsection (a) constitutes
22 a separate offense.

23 Sec. 754.025. APPLICATION OF CERTAIN LAW. Chapter 53,
24 Occupations Code, applies to a registration under this subchapter.

25 SECTION 2. Not later than December 1, 2003, the Texas
26 Commission of Licensing and Regulation shall adopt the rules
27 required by Section 754.016 and Subsection (a), Section 754.019,

1 Health and Safety Code, as amended by this Act.

2 SECTION 3. The changes in law made by this Act apply only to
3 an inspection report or certificate of compliance issued on or
4 after the effective date of this Act. An inspection report or
5 certificate issued before the effective date of this Act is covered
6 by the law in effect when the report or certificate was issued and
7 is valid until the renewal date of that report or certificate under
8 the terms of the former law, and the former law is continued in
9 effect for that purpose. On renewal, an inspection report or
10 certificate is subject to Chapter 754, Health and Safety Code, as
11 amended by this Act.

12 SECTION 4. (a) This Act takes effect September 1, 2003,
13 except that:

14 (1) a contractor is not required to be registered
15 under Section 754.0171, Health and Safety Code, as amended by this
16 Act, before January 1, 2004; and

17 (2) an escalator constructed before September 1,
18 2003, is not required to comply with step/skirt index requirements
19 imposed under the 2002 American Society of Mechanical Engineers
20 Safety Code for Elevators and Escalators A17.3 before September 1,
21 2009.

22 (b) A member of the elevator advisory board serving on the
23 effective date of this Act continues to serve until removed by the
24 governor or until the member's successor is appointed by the
25 governor.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

May 1, 2003
(date)

Sir:

We, your COMMITTEE ON LICENSING AND ADMINISTRATIVE PROCEDURES

to whom was referred SB 1090 have had the same under consideration and beg to report back with the recommendation that it

- ☒ do pass, without amendment.
☐ do pass, with amendment(s).
☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

- ☒ yes ☐ no A fiscal note was requested.
☐ yes ☒ no A criminal justice policy impact statement was requested.
☐ yes ☒ no An equalized educational funding impact statement was requested.
☐ yes ☒ no An actuarial analysis was requested.
☐ yes ☒ no A water development policy impact statement was requested.
☐ yes ☒ no A tax equity note was requested.

☒ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor Geren

Joint Sponsors: _____ / _____ / _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Flores, Chair	X			
Hamilton, Vice-chair	X			
Driver				X
Eissler				X
Goolsby	X			
Homer	X			
Jones, D.	X			
Raymond				X
Wise				X

Total 5 aye
 0 nay
 0 present, not voting
 4 absent

Kuo
CHAIR

BILL ANALYSIS

S.B. 1090

By: Carona

Licensing & Administrative Procedures
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, the state's authority, through the Texas Department of Licensing and Regulation (TDLR), to regulate and enforce elevator safety and inspection requirements is limited.

As proposed, S.B. 1090 creates a mechanism to regulate the registration of professionals who work on elevators, sets forth inspection requirements, and authorizes the commissioner of licensing and regulation to shut down equipment operation through an emergency order.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the [name of entity] in SECTION 1 (Section 745.0141, 745.015, Health and Safety Code) of this bill.

ANALYSIS

Amends Chapter 754B, Health and Safety Code, is amended as follows: SUBCHAPTER B. New heading: INSPECTION, CERTIFICATION, AND REGISTRATION Sec. 754.011.

DEFINITIONS. Defines "acceptance inspection," "accident," "alteration," "annual inspection," "ASCE Code 21," "ASME Code A18.1," "contractor," "equipment," "industrial facility," "serious bodily injury," and "unit of equipment." Redefines "ASME Code A17.3" and "related equipment." Redesignates Subsection (2) as Subsection (7), Subsections (3) - (5) as Subsections (9) - (11), Subsection (6) as Subsection (13), and Subsections (7) - (8) as Subsections (16) - (17).

Sec. 754.0111. EXEMPTION. (a) Creates this subsection from existing text and deletes text exempting an elevator, escalator, or related equipment from this subchapter. Provides that this subchapter does not apply to equipment in a private building owned by, rather than for, certain organizations. (b) Exempts an elevator in a single-family dwelling from this subchapter, except as provided by Section 754.0141 (Standards For Equipment In Single-family Dwellings; Required Information). Sec. 754.012. ELEVATOR ADVISORY BOARD. (a) Increases the number of members on the elevator advisory board from nine to 13, and provides that the members be appointed by the governor rather than commissioner of licensing and regulation (commissioner). Provides in the prerequisites for board membership, that a person need only own or manage one rather than multiple buildings. Requires the board to include a licensed or registered engineer or architect, rather than a representative of professional engineers or architects, and increases the number of public members from one to five. Makes conforming changes. (b) Provides that each board member serves at the will of the governor and, unless removed thereby, until the member's successor is appointed by the governor. Makes a conforming change. (c) Makes a conforming change. (d) No change to this subsection. (e) Provides that a board member is entitled to reimbursement for travel as provided for in the General Appropriations Act. Deletes texts referring to additional expenses that qualify for reimbursement. Sec. 754.013. BOARD DUTIES. Requires the advisory board to advise the commissioner on certain issues. Makes conforming and nonsubstantive changes. Sec. 754.014. STANDARDS ADOPTED BY COMMISSIONER. (a) Makes conforming changes. (b) Prohibits commissioner-adopted standards from containing requirements additional to ASME Code A18.1 and ASCE Code 21, in addition to certain other codes. Requires the standards to allow alteration of existing equipment if it does not diminish the safety level below this subchapter's requirements, at the time of alteration. (c) Deletes text providing that equipment comply with the

least restrictive of certain codes. Includes ASME Code A18.1 and ASCE Code 21 in the list of codes with which the commissioner-adopted standards, which are applicable as well as in effect, must comply in governing equipment installation. Makes a conforming and nonsubstantive change. Deletes existing Subdivision (2). (d) Deletes the specification that the ASME Code A17.3 referenced is the 1994 code. Makes conforming changes. (e) Deletes the requirement of a written request for a delay. Makes a conforming change. Prohibits the accumulated delay from exceeding three years, except as provided by Subsection (f) or as allowed by the commissioner's discretion. (f) Makes conforming and nonsubstantive changes. (g) Authorizes the commissioner to grant a waiver of compliance from an applicable code requirement, rather than citing specific codes, if the commissioner finds that noncompliance, with adequate alternative safeguards, will not constitute a significant threat to worker safety, in addition to certain other findings. Makes conforming and nonsubstantive changes. (h) Requires the commissioner to grant a waiver of compliance if the noncompliance resulted from compliance with a municipal equipment construction code at the time of the original installation, and does not pose imminent and significant danger. Makes a conforming change. (i) Exempts from this subchapter equipment in certain locations to which access is limited primarily, rather than principally, to employees of or working in that facility or structure. Makes a conforming change. (j) Deletes text authorizing the commissioner to charge a certain fee. Authorizes one application for a waiver or delay to contain all requests related to a unit of equipment, rather than a particular building. Requires a delay be granted for a specified time not to exceed three years. (k) Provides that for the purposes of this section, the date of installation or alteration of equipment, rather than just installation, is the date that the owner of the real property entered into a contract for the installation or alteration of the equipment, rather than the date of purchase. Makes conforming changes. Sec. 745.0141.

STANDARDS FOR EQUIPMENT IN SINGLE-FAMILY DWELLINGS; REQUIRED INFORMATION. (a) Requires elevators, chairlifts, or platform lifts installed in a single-family dwelling on or after January 1, 2004, to comply with ASME Code A17.1 or A18.1, as applicable, and to be inspected by a QEI-1 certified inspector after installation. Requires the inspector to provide the owner a copy of the inspection report. (b) Requires the commissioner to adopt rules, before January 1, 2004, with required minimum safety standards to be used by QEI-1 certified inspectors when inspecting certain equipment in single-family dwellings. (c) Authorizes a municipality to withhold a certificate of occupancy for a dwelling or the installation of certain equipment until the owner provides a copy of the QEI-1 inspection report to the municipality. (d) Provides that a contractor is not required to report to the Texas Department of Licensing and Regulation (TDLR) any information concerning equipment in a single-family dwelling or the contractor's work on the equipment. (e) Requires a contractor to provide the dwelling owner with certain information, upon completing installation of equipment in a single-family dwelling. (f) Authorizes an inspection by a QEI-1 certified inspector of equipment in a single-family dwelling only at the owner's request and consent. Provides that the owner of a single-family dwelling is not subject to Sections 754.022 (Notice of Noncompliance), 754.023 (Investigation; Registration and License Proceedings; Injunction; Emergency Orders) or 754.024 (Criminal Penalty). Sec. 754.015.

RULES. (a) Authorizes the commissioner to provide for, by rule, certain activities. (b) Prohibits the commissioner, by rule, from requiring or prohibiting certain activities. (c) Authorizes the commissioner, by rule, to require a reinspection or recertification of equipment if it has been altered and poses a significant threat to passenger or worker safety, or if an annual inspection report indicates an existing violation has continued longer than permitted in a delay granted by the commissioner. (d) Authorizes the commissioner, by rule, to charge certain fees. Sec. 754.016.

New heading: INSPECTION DOCUMENTS AND CERTIFICATE OF COMPLIANCE. (a) Requires an inspection report and a certificate of compliance required under this subchapter to cover each unit of equipment. Deletes text referring to specific items. Makes a conforming change. Requires separate inspection reports, rather than only one inspection report, and certificates of compliance for each unit of equipment. Makes nonsubstantive changes. (b) Requires an inspector to issue an inspection report to the building owner not later than the 10th calendar day after the date of inspection. Deletes text referring to commissioner-designated forms. (c) Requires the commissioner to issue, not date and sign, a certificate of compliance to the building owner if an application is submitted by the building owner with applicable fees and the application reflects certain information. Sec. 754.017.

CERTIFIED INSPECTORS. (a) Requires certain prerequisites to be met in order for an individual to inspect equipment. (b) Provides that a person assisting a certified inspector and working under the direct, on-site supervision of the inspector is not required to be certified, rather than ASME-QEI-1 certified.

Deletes text prohibiting the commissioner from prohibiting an ASME-QEI-1 certified inspector from inspecting certain equipment. (c) Provides that a registration expires on the first anniversary of the date of issuance. (d) Prohibits a certified inspector from being required to attend more than seven hours of continuing education during each licensing period. Deletes text referring to a \$15 fee. Sec. 754.0171. CONTRACTOR REGISTRATION. (a) Prohibits a person from installing, repairing, or maintaining equipment without registering as a contractor with TDLR as required by this chapter. (b) Requires a contractor to submit an application for registration and pay appropriate fees to TDLR. Authorizes the registration application form to require certain information of the applicant. (c) Provides that a registration expires on the first anniversary of the date of issuance. (d) Requires a person registering as a contractor under this subchapter to submit an initial report to TDLR, not later than the 60th day following the application date, containing certain information. (e) Requires a contractor registered as required by this subchapter to submit to TDLR, after the initial report required by Subsection (d), quarterly reports containing certain information. (f) Requires installation, repair, alteration, and maintenance standards for contractors to be consistent with certain codes. Sec. 754.0174. INSPECTION FEE. Prohibits the amount charged for an inspection or the performance of an inspection of equipment under this subchapter from being contingent on the existence of a maintenance contract between the person performing the inspection and any other person. Makes conforming and nonsubstantive changes. Sec. 754.018. POWERS OF MUNICIPALITIES. Exempts from this subchapter, subject to Section 751.014(h) (Standards Adopted By The Commissioner), equipment in a municipality that operates a program for the installation, maintenance, and alteration, in addition to inspection, or certification of equipment; provided that the standards of installation, maintenance, alteration, inspection, and certification are at least equivalent to, rather than no less stringent than, those contained in this subchapter. Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) Requires the owner of real property on which equipment is located to fulfill certain duties. (b) Requires the owner to submit, as applicable, to TDLR, rather than the commissioner, certain information upon filing an inspection report. (c) Deletes text referring to an inspection timeline. Provides that for the purpose of determining timely filing under Subsection (a)(3) and Section 754.016(b) (Inspection Documents and Certificate of Compliance), an inspection report and filing fees are considered filed on the earlier of certain dates. Makes conforming and nonsubstantive changes. (d) Deletes text referring to late fees and posting certificates of compliance. Makes nonsubstantive changes. (e) Requires an owner to report to TDLR each accident involving equipment, not later than 72 hours following the accident. Sec. 754.020. New heading: CHIEF ELEVATOR INSPECTOR. Authorizes the commissioner to appoint a chief elevator inspector, subject to certain prerequisites, to administer the equipment inspection and registration program. Sec. 754.021. New heading: LIST OF REGISTERED INSPECTORS AND CONTRACTORS. Requires the commissioner to perform certain duties. Sec. 754.022. NOTICE OF NONCOMPLIANCE. Redesignates the duties related to noncompliance by real property owners from the commissioner to TDLR. Sec. 754.023. New heading: INVESTIGATION; REGISTRATION PROCEEDINGS; INJUNCTION; EMERGENCY ORDERS. (a) Authorizes a TDLR employee to enter real property during regular business hours after notice to certain people to inspect equipment or investigate the danger or accident at no cost to the owner, if there is good cause to believe that equipment on real property poses an imminent threat, rather than is dangerous. Makes conforming changes. (b) Makes a conforming change. (c) Authorizes the commissioner to deny, suspend, or revoke a registration, under this subchapter and assess an administrative penalty for certain activities. Deletes text referring to an ASME-QEI-1 certified inspector. Makes conforming changes. (d) Provides that proceedings for certain registration issues are governed by Chapter 2001, Government Code (Administrative Procedure Act). (e) Creates this subsection from existing text. (f) Requires the attorney general to represent TDLR and its personnel, rather than the commissioner. Makes a nonsubstantive change. (g) Authorizes the commissioner to issue an emergency order, as necessary, to enforce this subchapter if the commissioner determines that an emergency exists requiring immediate action to protect the public health and safety. (h) Authorizes the commissioner to issue an emergency order with simultaneous notice and without hearing or with the notice and opportunity for hearing as practicable. (i) Requires the commissioner to set the time and place for a hearing to take certain actions on the emergency order, if an emergency order is issued under this section, not later than the 10th day after the order was issued. (j) Authorizes an emergency order to direct a building owner or manager to disconnect power to or lock out equipment under certain circumstances. (k) Authorizes the building owner or manager to have the power reconnected or the equipment

unlocked only under certain circumstances, if an emergency order to disconnect power to or lock out equipment is issued. (l) Authorizes the commissioner, or the designee thereof, to allow delayed payment if the building owner or manager commits, in writing, to pay TDLR for the expenses required by Subsection (k) not later than the 10th day after the date power is reconnected or equipment is unlocked. (m) Requires the commissioner, or the designee thereof, if an emergency order to disconnect power to or lock out equipment is issued and the building owner later notifies TDLR that the imminent and significant danger no longer exists, to promptly issue written permission to reconnect power or unlock the equipment and notify the owner, after the requirements of Subsection (k) are satisfied. Sec. 754.024. CRIMINAL PENALTY. No changes in this section Sec. 754.025. APPLICATION OF CERTAIN LAW. Provides that Chapter 53, Occupations Code (Consequences of Criminal Conviction), applies to a registration under this subchapter.

EFFECTIVE DATE

September 1, 2003. Application of this Act prospective to January 1, 2004. Application of this Act prospective to September 1, 2009, for an escalator constructed before September 1, 2003. Application of this Act prospective to a member of the elevator advisory board's removal by the governor or until the member's successor is appointed by the governor.

SUMMARY OF COMMITTEE ACTION

SB 1090

May 1, 2003 8:00AM

Considered in public hearing
Recommended to be sent to Local & Consent
Reported favorably without amendment(s)

1

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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 1, 2003

TO: Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1090 by Carona (Relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The Texas Department of Licensing and Regulation would be required to register elevator contractors and approve continuing education courses, and would require contractors to provide reports on serviced equipment. The agency estimates a population of approximately 45 individuals. It is assumed the agency can re-allocate its current resources in order to absorb any costs associated with the bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: JK, JRO, RT, RB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 26, 2003

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John Keel, Director, Legislative Budget Board

IN RE: **SB1090** by Carona (relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The Texas Department of Licensing and Regulation would be required to register elevator contractors and approve continuing education courses, and would require contractors to provide reports on serviced equipment. The agency estimates a population of approximately 45 individuals. It is assumed the agency can re-allocate its current resources in order to absorb any costs associated with the bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: JK, JRO, RT, RB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 25, 2003

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John Keel, Director, Legislative Budget Board

IN RE: **SB1090** by Carona (Relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1090, As Introduced: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2003
2004	\$59,400	(\$59,400)	1.0
2005	\$46,611	(\$46,611)	1.0
2006	\$46,611	(\$46,611)	1.0
2007	\$46,611	(\$46,611)	1.0
2008	\$46,611	(\$46,611)	1.0

Fiscal Analysis

The bill would authorize the Texas Department of Licensing and Regulation to register contractors and license elevator mechanics and cab renovators. It would authorize the agency to write rules that establish standards, set fees for registrants and licensees, and issue certificates of compliance for equipment. It would also require the agency to approve continuing education courses.

The bill would take effect September 1, 2003.

Methodology

The Texas Department of Licensing and Regulation expects a licensee population of approximately 1,275. The agency would need a total of one additional FTE to administer the program. This total would include one-half Administrative Technician III FTE (\$16,633 for salary and benefits) to review and process applications for licensure, registration, and certification of compliance and to review work reports submitted by contractors and compare addresses to an existing database. Also included would be one-quarter Investigator IV FTE (\$10,579 for salary and benefits) to investigate complaints and one-quarter Legal Assistant IV FTE (\$9,964 for salary and benefits) to perform preliminary reviews of incoming complaints and to prepare legal documents. It is assumed the agency can absorb additional administrative functions such as processing mail and reviewing applications with existing staff.

The agency also indicates it would require \$2,100 in professional services to image an additional 35,000 documents, \$1,600 for the travel of four additional advisory board members, and \$1,235 for additional background checks. For travel, equipment, and other operating expenses, the agency would need \$17,289 in fiscal year 2004 and \$7,500 in each subsequent year.

It is assumed the agency would raise fees from vehicle repossession industry licensees sufficient to cover all costs associated with the program.

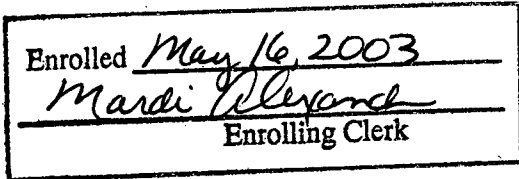
Technology

The Texas Department of Licensing and Regulation would require \$2,300 for a computer and related equipment for an additional FTE. The agency would also require \$5,000 to purchase an additional disk drive for storage of documents in the imaging system.

Local Government Impact

No fiscal implication to units of local government is anticipated.

- Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 452 Department of Licensing and Regulation
- LBB Staff:** JK, JRO, RT, RB



S.B. No. 1090

AN ACT

relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 754, Health and Safety Code, is amended to read as follows:

SUBCHAPTER B. INSPECTION, ~~[AND]~~ CERTIFICATION, AND REGISTRATION

Sec. 754.011. DEFINITIONS. In this subchapter:

(1) "Acceptance inspection" means an inspection performed at the completion of the initial installation or alteration of equipment and in accordance with the applicable ASME Code A17.1.

(2) "Accident" means an event involving equipment that results in death or serious bodily injury to a person.

(3) "Alteration" means a change in or modernization of existing equipment. The term does not include maintenance, repair, replacement, or a cosmetic change that does not affect the operational safety of the equipment or diminish the safety of the equipment below the level required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, at the time of alteration.

(4) "Annual inspection" means an inspection of

1 equipment performed in a 12-month period in accordance with the
2 applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or
3 ASCE Code 21. The term includes an acceptance inspection performed
4 within that period.

5 (5) "ASCE Code 21" means the American Society of Civil
6 Engineers Code 21 for people movers operated by cables.

7 (6) "ASME Code A17.1" means the American Society of
8 Mechanical Engineers Safety Code for Elevators and Escalators
9 A17.1.

10 (6-a) "Executive director" means the executive
11 director of the department.

12 (7) [~~2~~] "ASME Code A17.3" means the 2002 American
13 Society of Mechanical Engineers Safety Code for Elevators and
14 Escalators A17.3.

15 (8) "ASME Code A18.1" means the American Society of
16 Mechanical Engineers Safety Code for Platform Lifts and Stairway
17 Chairlifts A18.1.

18 (9) [~~3~~] "Board" means the elevator advisory board.

19 (10) [~~4~~] "Commission" means the Texas Commission of
20 Licensing and Regulation.

21 (11) [~~5~~] "Commissioner" means the commissioner of
22 licensing and regulation.

23 (12) "Contractor" means a person engaged in the
24 installation, repair, or maintenance of equipment. The term does
25 not include an employee of a contractor or a person engaged in
26 cleaning or any other work performed on equipment that does not
27 affect the operational safety of the equipment or diminish the

1 safety of the equipment below the level required by the ASME Code
2 A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as
3 applicable.

4 (13) [(46)] "Department" means the Texas Department of
5 Licensing and Regulation.

6 (14) "Equipment" means an elevator, escalator,
7 chairlift, platform lift, automated people mover operated by
8 cables, or moving sidewalk, or related equipment.

9 (15) "Industrial facility" means a facility to which
10 access is primarily limited to employees or contractors working in
11 that facility.

12 (16) [(47)] "Qualified historic building or facility"
13 means a building or facility that is:

14 (A) listed in or eligible for listing in the
15 National Register of Historic Places; or

16 (B) designated as a Recorded Texas Historic
17 Landmark or State Archeological Landmark.

18 (17) [(48)] "Related equipment" means:

19 (A) automatic equipment that is used to move a
20 person in a manner that is similar to that of an elevator, an [ex]
21 escalator, a chairlift, a platform lift, an automated people mover
22 operated by cables, or [and includes] a moving sidewalk; and

23 (B) hoistways, pits, and machine rooms for
24 equipment.

25 (18) "Serious bodily injury" means a major impairment
26 to bodily function or serious dysfunction of any bodily organ or
27 part requiring medical attention.

(19) "Unit of equipment" means one elevator, escalator, chairlift, platform lift, automated people mover operated by cables, or moving sidewalk, or related equipment.

Sec. 754.0111. EXEMPTION. (a) This subchapter does not apply to ~~[an elevator, escalator, or related]~~ equipment in a private building for a labor union, trade association, private club, or charitable organization that has two or fewer floors.

(b) This subchapter does not apply to an elevator located in a single-family dwelling, except as provided by Section 754.0141.

Sec. 754.012. ELEVATOR ADVISORY BOARD. (a) The elevator advisory board is composed of nine members appointed by the presiding officer of the commission ~~[commissioner]~~ as follows:

(1) a representative of the insurance industry or a certified elevator inspector;

(2) a representative of ~~[elevator, escalator, and related]~~ equipment constructors;

(3) a representative of owners or managers of a building ~~[buildings]~~ having fewer than six stories and having ~~[an elevator, an escalator, or related]~~ equipment;

(4) a representative of owners or managers of a building ~~[buildings]~~ having six stories or more and having ~~[an elevator, an escalator, or related]~~ equipment;

(5) a representative of independent ~~[elevator, escalator, and related]~~ equipment maintenance companies;

(6) a representative of ~~[elevator, escalator, and related]~~ equipment manufacturers;

(7) a licensed or registered engineer or architect

~~[representative of professional engineers or architects];~~

(8) a public member; and

(9) a public member with a physical disability.

(b) Board members serve at the will of the commission
~~[commissioner]~~.

(c) The presiding officer of the commission ~~[commissioner]~~
shall appoint a presiding officer of the board to serve for two
years.

(d) The board shall meet at least twice each calendar year.

(e) A board member serves without compensation but is
entitled to reimbursement for travel as provided for in the General
Appropriations Act ~~[and other necessary expenses incurred in~~
~~performing duties under this subchapter]~~.

Sec. 754.013. BOARD DUTIES. To protect public safety and to
identify and correct potential hazards, the board shall advise the
commission ~~[commissioner]~~ on:

(1) the adoption of appropriate standards for the
installation, alteration, operation, and inspection of ~~[elevators,~~
~~escalators, and related]~~ equipment;

(2) the status of ~~[elevators, escalators, and related]~~
equipment used by the public in this state; ~~[and]~~

(3) sources of information relating to equipment
safety;

(4) public awareness programs related to elevator
safety, including programs for sellers and buyers of single-family
dwelling with elevators, chairlifts, or platform lifts; and

(5) any other matter considered relevant by the

1 commission [~~commissioner~~].

2 Sec. 754.014. STANDARDS ADOPTED BY COMMISSION

3 [~~COMMISSIONER~~]. (a) The commission [~~commissioner~~] shall adopt
4 standards for the installation, maintenance, alteration,
5 operation, and inspection of [~~elevators, escalators, and related~~]
6 equipment used by the public in:

7 (1) buildings owned or operated by the state, a
8 state-owned institution or agency, or a political subdivision of
9 the state; and

10 (2) buildings that contain [~~an elevator, an escalator,~~
11 ~~or related~~] equipment that is open to the general public, including
12 a hotel, motel, apartment house, boardinghouse, church, office
13 building, shopping center, or other commercial establishment.

14 (b) Standards adopted by the commission [~~commissioner~~] may
15 not contain requirements in addition to the requirements in the
16 ASME Code A17.1, [~~or~~] ASME Code A17.3, ASME Code A18.1, or ASCE Code
17 21. The standards must allow alteration of existing equipment if
18 the alteration does not diminish the safety of the equipment below
19 the level required by this subchapter at the time of alteration.

20 (c) Standards adopted by the commission [~~commissioner~~] must
21 require [~~elevators, escalators, and related~~] equipment to comply
22 with the installation requirements of the [~~following, whichever is~~
23 ~~the least restrictive.~~

24 [~~(1) the~~] ASME Code A17.1, ASME Code A18.1, or ASCE
25 Code 21 that was in effect and applicable on the date of
26 installation of the [~~elevators, escalators, and related~~]
27 equipment[~~, or~~

1 ~~[(2) an applicable municipal ordinance governing the~~
2 ~~installation of elevators, escalators, and related equipment that~~
3 ~~was in effect on the date of installation].~~

4 (d) Standards adopted by the commission ~~[commissioner]~~ must
5 require ~~[elevators, escalators, and related]~~ equipment to comply
6 with the installation requirements of the [1994] ASME Code A17.3
7 that contains minimum safety standards for all ~~[elevators,~~
8 ~~escalators, and related]~~ equipment, regardless of the date of
9 installation.

10 (e) The executive director ~~[On written request, the~~
11 ~~commissioner]~~ shall grant a delay for compliance with the
12 applicable ASME Code A17.1, ~~[or the 1994]~~ ASME Code A17.3, or ASME
13 Code A18.1 until a specified time if compliance is not readily
14 achievable, as that phrase is defined in the Americans with
15 Disabilities Act (42 U.S.C. Section 12101 et seq.), or regulations
16 adopted under that Act. The accumulated total time of all delays
17 may not exceed three years, except as provided by Subsection (f) or
18 as allowed in the discretion of the executive director.

19 (f) The executive director ~~[On written request, the~~
20 ~~commissioner]~~ shall grant a delay until September 1, 2005, for
21 compliance with the requirements for door restrictors or
22 firefighter's service in the [1994] ASME Code A17.3 if those
23 requirements were not included in the ASME Code A17.1 that was in
24 effect on the date of installation ~~[of the elevator, escalator, or~~
25 ~~related equipment]~~ and the ~~[that]~~ equipment was not subsequently
26 installed ~~[by an owner of the elevator, escalator, or related~~
27 ~~equipment].~~

(g) The executive director [~~commissioner~~] may grant a waiver of compliance from an applicable code requirement [~~with the applicable ASME Code A17.1 or the 1994 ASME Code A17.3~~] if the executive director [~~commissioner~~] finds that:

(1) the building in which the [~~elevator, escalator, or related~~] equipment is located is a qualified historic building or facility or the noncompliance is due to structural components of the building; [~~and~~]

(2) noncompliance will not constitute a significant threat to passenger safety; and

(3) noncompliance, with adequate alternative safeguards, will not constitute a significant threat to worker safety.

(h) The executive director shall grant a waiver of compliance if the noncompliance resulted from compliance with a municipal equipment construction code at the time of the original installation and the noncompliance does not pose imminent and significant danger. The executive director [~~commissioner~~] may grant a waiver of compliance with the firefighter's service provisions of the ASME Code A17.1 or the [~~1994~~] ASME Code A17.3 in an elevator that exclusively serves a vehicle parking garage in a building that:

(1) is used only for parking;

(2) is constructed of noncombustible materials; and

(3) is not greater than 75 feet in height.

(i) This subchapter does not apply to [~~an elevator, an escalator, or related~~] equipment in an industrial facility, or in a

grain silo, radio antenna, bridge tower, underground facility, or dam, to which access is limited primarily ~~[principally]~~ to employees of or working in that facility or structure.

(j) ~~[The commissioner may charge a reasonable fee as set by the commission for an application for waiver or delay.]~~ One application for a waiver or delay may contain all requests related to a unit of equipment ~~[particular building]~~. A delay may not be granted indefinitely but must be granted for ~~[to]~~ a specified time not to exceed three years.

(k) For purposes of this section, the date of installation or alteration of equipment is the date that the owner of the real property entered into a contract for the installation or alteration of the ~~[purchase of the elevators, escalators, or related]~~ equipment. If that date cannot be established, the date of installation or alteration is the date of issuance of the municipal building permit under which the ~~[elevators, escalators, or related]~~ equipment was installed or altered ~~[constructed]~~ or, if a municipal building permit was not issued, the date that electrical consumption began for the construction of the building in which the ~~[elevators, escalators, or related]~~ equipment was installed.

Sec. 754.0141. STANDARDS FOR EQUIPMENT IN SINGLE-FAMILY DWELLINGS; REQUIRED INFORMATION. (a) Elevators, chairlifts, or platform lifts installed in a single-family dwelling on or after January 1, 2004, must comply with the ASME Code A17.1 or A18.1, as applicable, and must be inspected by a QEI-1 certified inspector after the installation is complete. The inspector shall provide the dwelling owner a copy of the inspection report.

1 (b) The commission shall, before January 1, 2004, adopt
2 rules containing minimum safety standards that must be used by
3 QEI-1 certified inspectors when inspecting elevators, chairlifts,
4 and platform lifts installed in single-family dwellings.

5 (c) A municipality may withhold a certificate of occupancy
6 for a dwelling or for the installation of the elevator or chairlift
7 until the owner provides a copy of the QEI-1 inspection report to
8 the municipality.

9 (d) A contractor is not required to report to the department
10 any information concerning equipment in a single-family dwelling or
11 the contractor's work on the equipment.

12 (e) On completing installation of equipment in a
13 single-family dwelling, a contractor shall provide the dwelling
14 owner with relevant information, in writing, about use, safety, and
15 maintenance of the equipment, including the advisability of having
16 the equipment periodically and timely inspected by a QEI-1
17 certified inspector.

18 (f) An inspection by a QEI-1 certified inspector of
19 equipment in a single-family dwelling may be performed only at the
20 request and with the consent of the owner. The owner of a
21 single-family dwelling is not subject to Section 754.022, 754.023,
22 or 754.024.

23 Sec. 754.015. RULES. (a) The commission [~~commissioner~~] by
24 rule shall provide for:

25 (1) an annual [~~the~~] inspection and certification of
26 the [~~once each calendar year of elevators, escalators, and related~~]
27 equipment covered by standards adopted under this subchapter;

- (2) ~~[the]~~ enforcement of those standards;
 - (3) registration ~~[the certification]~~ of qualified ~~[persons as]~~ inspectors and contractors ~~[for the purposes of this subchapter]; [and]~~
 - (4) the form of ~~[the]~~ inspection documents, contractor reports, [report] and certificates [certificate] of compliance;
 - (5) notification to building owners, architects, and other building industry professionals regarding the necessity of annually inspecting equipment;
 - (6) approval of continuing education programs for registered OEI-1 certified inspectors; and
 - (7) standards of conduct for individuals who are registered under this subchapter.
- (b) The commission ~~[commissioner]~~ by rule may not ~~[require that]:~~
- (1) require inspections of equipment to [inspection] be made more often than every 12 months, except as provided by Subsection (c) [once per year of elevators, escalators, and related equipment];
 - (2) require persons to post a bond or furnish insurance or to have minimum experience or education as a condition of certification or registration; [and]
 - (3) require building owners to submit to the department proposed plans for equipment installation or alteration; or
 - (4) prohibit a OEI-1 certified inspector who is registered with the department from inspecting equipment.

(c) The commission by rule may require a reinspection or recertification of equipment if the equipment has been altered and poses a significant threat to passenger or worker safety or if an annual inspection report indicates an existing violation has continued longer than permitted in a delay granted by the executive director.

(d) The executive director may charge a reasonable fee as set by the commission for:

(1) registering or renewing registration of an inspector;

(2) registering or renewing registration of a contractor;

(3) applying for a certificate of compliance;

(4) filing an inspection report as required by Section 754.019(a)(3), 30 days or more after the date the report is due, for each day the report remains not filed after the date the report is due;

(5) applying for a waiver or delay; and

(6) attending a continuing education program sponsored by the department for registered QEI-1 inspectors
~~[inspection reports or certificates of compliance be placed in locations other than one provided in Section 754.019(4)].~~

Sec. 754.016. INSPECTION REPORTS ~~[REPORT]~~ AND CERTIFICATES
~~[CERTIFICATE]~~ OF COMPLIANCE. (a) Inspection reports ~~[An inspection report]~~ and certificates ~~[a certificate]~~ of compliance required under this subchapter must cover all ~~[elevators, escalators, and related]~~ equipment in a building or structure

appurtenant to the building, including a parking facility, that are owned by the same person or persons. ~~[There shall be only one inspection report and one certificate of compliance for each building.]~~

(b) An inspector shall date and sign an inspection report and shall issue the report to the building owner not later than the 10th calendar day after the date of inspection. ~~[The inspection report shall be on forms designated by the commissioner.]~~

(c) The executive director ~~[commissioner]~~ shall date and sign a certificate of compliance and shall issue the certificate to the building owner. The certificate of compliance shall state:

(1) that the ~~[elevators, escalators, and related]~~ equipment has ~~[have]~~ been inspected by a certified inspector and found by the inspector to be in compliance, except for any delays or waivers granted by the executive director ~~[commissioner]~~ and stated in the certificate;

(2) the date of the last inspection and the due date for the next inspection; and

(3) contact information at the department to report a violation of this subchapter.

(d) The commission by rule shall:

(1) specify what information must be contained in a certificate of compliance;

(2) describe the procedure by which a certificate of compliance is issued;

(3) require that a certificate of compliance related to an elevator be posted in a publicly visible area of the building;

1 and

2 (4) determine what constitutes a "publicly visible
3 area" under Subdivision (3).

4 Sec. 754.017. CERTIFIED INSPECTORS. (a) In order to
5 inspect equipment, an individual must:

6 (1) be registered [~~An inspector must register~~] with
7 the department;

8 (2) attend educational programs approved by the
9 department;

10 (3) [~~and~~] be certified as a OEI-1 [~~an ASME-OEI-1~~]
11 inspector by an organization accredited by the American Society of
12 Mechanical Engineers; and

13 (4) pay all applicable fees. [~~Any certification~~
14 ~~charges or fees shall be paid by the inspector.~~]

15 (b) [~~The commissioner may not by rule prohibit an ASME-OEI-1~~
16 ~~certified inspector who is registered with the department from~~
17 ~~inspecting under this subchapter an elevator, an escalator, or~~
18 ~~related equipment.~~] A person assisting a certified inspector and
19 working under the direct, on-site supervision of the inspector is
20 not required to be [ASME-OEI-1] certified.

21 (c) A registration expires on the first anniversary of the
22 date of issuance.

23 (d) A certified inspector may not be required to attend more
24 than seven hours of continuing education during each licensing
25 period. [~~The commissioner may charge a \$15 fee to certified~~
26 ~~inspectors for registering with the department.~~]

27 Sec. 754.0171. CONTRACTOR REGISTRATION. (a) A person may

1 not install, repair, or maintain equipment without registering as a
2 contractor with the department as required by this subchapter.

3 (b) A contractor shall submit an application for
4 registration and pay appropriate fees to the department. The
5 registration application form may require information concerning
6 the background, experience, or identity of the applicant.

7 (c) A registration expires on the first anniversary of the
8 date of issuance.

9 (d) A person registering as a contractor under this
10 subchapter shall submit to the department an initial report, not
11 later than the 60th day following the application date, containing:

12 (1) the street address of each building or location at
13 which the person performed installation, repair, alteration, or
14 maintenance of equipment for the previous two years; and

15 (2) the name and mailing address of the building
16 owner.

17 (e) After the initial report required by Subsection (d), a
18 contractor registered as required by this subchapter shall submit
19 to the department a quarterly report containing:

20 (1) the street address of each building or location at
21 which the contractor performed installation, repair, alteration,
22 or maintenance of equipment not reported in the contractor's
23 initial report to the department under Subsection (d); and

24 (2) the name and mailing address of the building
25 owner.

26 (f) Installation, repair, alteration, and maintenance
27 standards for contractors must be consistent with ASME Code A17.1,

1 ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

2 Sec. 754.0172. INSPECTION FEE. [~~(a) A person inspecting~~
3 ~~an elevator, an escalator, or related equipment under this~~
4 ~~subchapter may not charge more than \$65 per elevator cab or per~~
5 ~~escalator for each inspection.~~

6 [~~(b)~~] The amount charged for an inspection or the
7 performance of an inspection of equipment under this subchapter may
8 not be contingent on the existence of a maintenance contract
9 between the person performing the inspection and any other person.

10 Sec. 754.018. POWERS OF MUNICIPALITIES. Subject to Section
11 754.014(h), if [~~if~~] a municipality operates a program for the
12 installation, maintenance, alteration, inspection, or [~~and~~]
13 certification of [~~elevators, escalators, and related~~] equipment,
14 this subchapter shall not apply to the [~~elevators, escalators, and~~
15 ~~related~~] equipment in that municipality, provided that the
16 standards of installation, maintenance, alteration, inspection,
17 and certification are at least equivalent to [~~no less stringent~~
18 ~~than~~] those contained in this subchapter.

19 Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) The
20 owner of real property on which [~~an elevator, an escalator, or~~
21 ~~related~~] equipment covered by this subchapter is located shall:

22 (1) have the [~~elevator, escalator, or related~~]
23 equipment inspected annually by a [~~an ASME-QEI-1~~] certified
24 inspector [~~in accordance with the commissioner's rules~~];

25 (2) obtain an inspection report from the inspector
26 evidencing that all [~~elevators, escalators, and related~~] equipment
27 in a building on the real property was [~~were~~] inspected in

accordance with this subchapter and rules adopted under this subchapter;

(3) file with the executive director ~~[commissioner a copy of]~~ each inspection report, and all applicable fees, ~~[and a \$20 filing fee for each report, plus \$5 for each elevator, escalator, or related equipment]~~ not later than the 60th day after the date on which an inspection is made under this subchapter;

(4) display the certificate of compliance:

(A) in a publicly visible area of the building, as determined by commission rule under Section 754.016, ~~[the elevator mechanical room]~~ if the certificate relates to an elevator;

(B) in the escalator box if the certificate relates to an escalator; or

(C) in a place designated by the executive director ~~[commissioner]~~ if the certificate relates to ~~[related]~~ equipment other than an elevator or escalator; and

(5) display the inspection report at the locations designated in Subdivision (4) until a certificate of compliance is issued ~~[by the commissioner]~~.

(b) When an inspection report is filed ~~[with the commissioner]~~, the owner shall submit to the executive director, as applicable ~~[commissioner]~~:

(1) verification that any deficiencies in the inspector's report have been remedied or that a bona fide contract to remedy the deficiencies has been entered into; or

(2) any application for delay or waiver of an

applicable standard.

(c) ~~[An inspection must be made not later than 18 months after the previous calendar year's inspection. This subsection does not affect the requirement that elevators, escalators, or related equipment be inspected at least once each calendar year.]~~

~~[(d)]~~ For the purpose of determining timely filing under Subsection (a)(3) and Section 754.016(b), an inspection report and filing fees [fee] are considered filed on the earlier of:

(1) the date of personal delivery;

(2) the date of postmark [mailing] by United States mail if properly addressed to the executive director; or

(3) the date of deposit with a commercial courier service, if properly addressed to the executive director [commissioner].

~~(d) [(e) If the inspection report and fee required by Subsection (a)(3) are not timely filed, the commissioner may charge the owner of the real property on which the elevator, escalator, or related equipment is located an additional \$100 fee for late filing.]~~

~~[(f) The commissioner may not require that an inspection report or certificate of compliance be placed inside or immediately outside an elevator cab or escalator or in the lobby or hallways of a building.]~~

~~[(g)]~~ A fee may not be charged or collected for a certificate of compliance for an institution of higher education as defined in Section 61.003, Education Code.

(e) An owner shall report to the department each accident

1 involving equipment not later than 72 hours following the accident.

2 Sec. 754.020. CHIEF ELEVATOR INSPECTOR ~~[DEPOSIT OF FEES]~~.

3 The executive director may appoint a chief elevator inspector to
4 administer the equipment inspection and registration program. The
5 chief elevator inspector:

6 (1) may not have a financial or commercial interest in
7 the manufacture, maintenance, repair, inspection, installation, or
8 sale of equipment; and

9 (2) must possess a QEI-1 certification or obtain the
10 certification within six months after becoming chief inspector
11 ~~[Fees collected under this subchapter shall be deposited to the~~
12 ~~credit of an account in the general revenue fund that may be used by~~
13 ~~the commissioner only to administer and enforce this subchapter and~~
14 ~~to reimburse expenses of board members provided by this~~
15 ~~subchapter].~~

16 Sec. 754.021. LIST OF REGISTERED INSPECTORS AND CONTRACTORS
17 ~~[, PERSONNEL]~~. The executive director shall ~~[commissioner may]~~:

18 (1) compile a list of ~~[ASME-QEI-1]~~ certified
19 inspectors and contractors who are registered with the department
20 ~~[to perform an inspection under this subchapter]; and~~

21 (2) employ personnel who are ~~[as]~~ necessary to enforce
22 this subchapter.

23 Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the department
24 ~~[commissioner]~~ learns of a situation of noncompliance under Section
25 754.019, the department ~~[commissioner]~~ shall send notice by
26 certified mail of the noncompliance and the actions required to
27 remedy the noncompliance to the record owner of the real property on

which the equipment that is the subject of the noncompliance is located.

Sec. 754.023. INVESTIGATION; REGISTRATION [~~LICENSE~~]
 PROCEEDINGS; INJUNCTION; EMERGENCY ORDERS. (a) If there is good cause for the executive director [~~commissioner~~] to believe that [~~an elevator, an escalator, or related~~] equipment on real property poses an imminent and significant danger [~~is dangerous~~] or that an accident involving [~~an elevator, an escalator, or related~~] equipment occurred on the property and serious bodily injury or property damage resulted, the executive director [~~the commissioner~~] may enter the property during regular business hours after notice to the owner, operator, or person in charge of the property to inspect the [~~elevator, escalator, or related~~] equipment or investigate the danger or accident at no cost to the owner.

(b) The executive director [~~commissioner~~] may enter real property during regular business hours after notice to the owner, operator, or person in charge of the property to verify, at no cost to the owner, whether an inspection report or certificate of compliance has been displayed as required under Section 754.019(a).

(c) The commission [~~commissioner~~] may deny, suspend, or revoke a [~~the~~] registration under this subchapter and may assess an administrative penalty [~~of any ASME-QEI-1 certified inspector~~] for:

(1) obtaining registration with the executive director [~~commissioner~~] by fraud or false representation;

(2) falsifying a [~~any inspection~~] report submitted to the executive director [~~commissioner~~]; or

(3) violating this subchapter or a rule adopted under this subchapter.

(d) Proceedings for the denial, suspension, or revocation of a registration and appeals from those proceedings are governed by Chapter 2001, Government Code.

(e) The executive director [~~commissioner~~] is entitled to appropriate injunctive relief to prevent a violation or threatened violation of this subchapter or a rule adopted under this subchapter.

(f) [~~(e)~~] The executive director [~~commissioner~~] may bring suit in a district court in Travis County or in the county in which the violation or threatened violation occurs. If requested, the attorney general shall represent the executive director [~~commissioner~~] in the suit.

(g) The executive director may issue an emergency order as necessary to enforce this subchapter if the executive director determines that an emergency exists requiring immediate action to protect the public health and safety.

(h) The executive director may issue an emergency order with simultaneous notice and without hearing or with the notice and opportunity for hearing practicable under the circumstances.

(i) If an emergency order is issued under this section without a hearing, the executive director shall set the time and place for a hearing to affirm, modify, or set aside the emergency order not later than the 10th day after the date the order was issued.

(j) An emergency order may direct a building owner or

manager to disconnect power to or lock out equipment if:

(1) the department determines imminent and significant danger to passenger safety exists if action is not taken immediately and reasonable effort has been made for voluntary compliance by notification to the building owner or manager of the danger before the issuance of an emergency order; or

(2) an annual inspection has not been performed in more than two years and:

(A) the department gives the building owner or manager, or the agent of the building owner or manager, 60 days' written notice by certified mail directing the equipment to be inspected according to this subchapter; and

(B) after the expiration of the notice period under Paragraph (A), the department gives the building owner or manager, or the agent of the building owner or manager, written notice by certified mail stating that an order to disconnect power or lock out equipment will be made after the seventh day after the date notice is delivered.

(k) If an emergency order to disconnect power or lock out equipment is issued, the building owner or manager may have the power reconnected or the equipment unlocked only if:

(1) a registered inspector or contractor or a department representative has filed a written form with the department verifying the imminent and significant danger has been removed by repair, replacement, or other means; and

(2) the building owner, before the reconnection of power or unlocking of equipment, reimburses the department for all

expenses incurred relating to the disconnection of power or
lockout.

(l) The executive director or the executive director's
designee may allow delayed payment if the building owner or manager
commits in writing to pay the department for the expenses required
by Subsection (k) not later than the 10th day after the date power
is reconnected or equipment is unlocked.

(m) If an emergency order to disconnect power or lock out
equipment is issued and the building owner later notifies the
department that the imminent and significant danger no longer
exists, the executive director or the executive director's designee
shall, after the requirements of Subsection (k) are satisfied,
promptly issue written permission to reconnect power or unlock the
equipment and notify the owner.

Sec. 754.024. CRIMINAL PENALTY. (a) A person commits an
offense if the person receives notice of noncompliance under
Section 754.022 and the person has not remedied the noncompliance
or entered into a bona fide contract to remedy the noncompliance
before the 61st day after the date on which the notice is received.

(b) An offense under this section is a Class C misdemeanor.
(c) Each day of an offense under Subsection (a) constitutes
a separate offense.

Sec. 754.025. APPLICATION OF CERTAIN LAW. Chapter 53,
Occupations Code, applies to a registration under this subchapter.

SECTION 2. Not later than December 1, 2003, the Texas
Commission of Licensing and Regulation shall adopt the rules
required by Section 754.016 and Subsection (a), Section 754.019,

1 Health and Safety Code, as amended by this Act.

2 SECTION 3. The changes in law made by this Act apply only to
3 an inspection report or certificate of compliance issued on or
4 after the effective date of this Act. An inspection report or
5 certificate issued before the effective date of this Act is covered
6 by the law in effect when the report or certificate was issued and
7 is valid until the renewal date of that report or certificate under
8 the terms of the former law, and the former law is continued in
9 effect for that purpose. On renewal, an inspection report or
10 certificate is subject to Chapter 754, Health and Safety Code, as
11 amended by this Act.

12 SECTION 4. (a) This Act takes effect September 1, 2003,
13 except that:

14 (1) a contractor is not required to be registered
15 under Section 754.0171, Health and Safety Code, as amended by this
16 Act, before January 1, 2004; and

17 (2) an escalator constructed before September 1,
18 2003, is not required to comply with step/skirt index requirements
19 imposed under the 2002 American Society of Mechanical Engineers
20 Safety Code for Elevators and Escalators A17.3 before September 1,
21 2009.

22 (b) A member of the elevator advisory board serving on the
23 effective date of this Act continues to serve until removed by the
24 governor or until the member's successor is appointed by the
25 governor.

S.B. No. 1090

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1090 passed the Senate on April 9, 2003, by a viva-voce vote.

Secretary of the Senate

I hereby certify that S.B. No. 1090 passed the House on May 16, 2003, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 1, 2003

TO: Honorable Kino Flores, Chair, House Committee on Licensing & Administrative Procedures

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1090 by Carona (Relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The Texas Department of Licensing and Regulation would be required to register elevator contractors and approve continuing education courses, and would require contractors to provide reports on serviced equipment. The agency estimates a population of approximately 45 individuals. It is assumed the agency can re-allocate its current resources in order to absorb any costs associated with the bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: JK, JRO, RT, RB

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 26, 2003

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1090 by Carona (relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The Texas Department of Licensing and Regulation would be required to register elevator contractors and approve continuing education courses, and would require contractors to provide reports on serviced equipment. The agency estimates a population of approximately 45 individuals. It is assumed the agency can re-allocate its current resources in order to absorb any costs associated with the bill.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 452 Department of Licensing and Regulation

LBB Staff: JK, JRO, RT, RB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

March 25, 2003

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John Keel, Director, Legislative Budget Board

IN RE: SB1090 by Carona (Relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB1090, As Introduced: an impact of \$0 through the biennium ending August 31, 2005.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2004	\$0
2005	\$0
2006	\$0
2007	\$0
2008	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>GENERAL REVENUE FUND</i> 1	Probable Savings/(Cost) from <i>GENERAL REVENUE FUND</i> 1	Change in Number of State Employees from FY 2003
2004	\$59,400	(\$59,400)	1.0
2005	\$46,611	(\$46,611)	1.0
2006	\$46,611	(\$46,611)	1.0
2007	\$46,611	(\$46,611)	1.0
2008	\$46,611	(\$46,611)	1.0

Fiscal Analysis

The bill would authorize the Texas Department of Licensing and Regulation to register contractors and license elevator mechanics and cab renovators. It would authorize the agency to write rules that establish standards, set fees for registrants and licensees, and issue certificates of compliance for equipment. It would also require the agency to approve continuing education courses.

The bill would take effect September 1, 2003.

Methodology

The Texas Department of Licensing and Regulation expects a licensee population of approximately 1,275. The agency would need a total of one additional FTE to administer the program. This total would include one-half Administrative Technician III FTE (\$16,633 for salary and benefits) to review and process applications for licensure, registration, and certification of compliance and to review work reports submitted by contractors and compare addresses to an existing database. Also included would be one-quarter Investigator IV FTE (\$10,579 for salary and benefits) to investigate complaints and one-quarter Legal Assistant IV FTE (\$9,964 for salary and benefits) to perform preliminary reviews of incoming complaints and to prepare legal documents. It is assumed the agency can absorb additional administrative functions such as processing mail and reviewing applications with existing staff.

The agency also indicates it would require \$2,100 in professional services to image an additional 35,000 documents, \$1,600 for the travel of four additional advisory board members, and \$1,235 for additional background checks. For travel, equipment, and other operating expenses, the agency would need \$17,289 in fiscal year 2004 and \$7,500 in each subsequent year.

It is assumed the agency would raise fees from vehicle repossession industry licensees sufficient to cover all costs associated with the program.

Technology

The Texas Department of Licensing and Regulation would require \$2,300 for a computer and related equipment for an additional FTE. The agency would also require \$5,000 to purchase an additional disk drive for storage of documents in the imaging system.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 452 Department of Licensing and Regulation

LBB Staff: JK, JRO, RT, RB

President of the Senate_____
Speaker of the House

I hereby certify that S.B. No. 1090 passed the Senate on
April 9, 2003, by a viva-voce vote. ~~by the following~~
vote: Yeas _____, Nays _____

Secretary of the Senate

I hereby certify that S.B. No. 1090 passed the House on
May 16, 2003, by a non-record vote. ~~by the following~~
vote: Yeas _____, Nays _____, ~~one present not voting~~

Chief Clerk of the House

Approved:

Date_____
Governor

S.B. No. 1090

By

Carroll

A BILL TO BE ENTITLED

AN ACT:

relating to inspection, installation, repair, and maintenance of elevators, escalators, chairlifts, people movers, moving sidewalks, platform lifts, and related equipment; providing an administrative penalty.

3-10-03

Filed with the Secretary of the Senate

MAR 17 2003

Read and referred to Committee on BUSINESS AND COMMERCE

Reported favorably _____

MAR 27 2003

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

APR 08 2003

Senate and Constitutional Rules to permit consideration suspended by: { unanimous consent
_____ yeas, _____ nays

APR 08 2003

Read second time, amended, and ordered engrossed by: { unanimous consent
a viva voce vote
_____ yeas, _____ nays

APR 09 2003

Senate and Constitutional 3 Day Rule suspended by a vote of _____ yeas, _____ nays.

Reg. Order of Bus. Rule suspended by u.c.

APR 09 2003

Read third time, amended, and passed by: { A viva voce vote
_____ yeas, _____ nays

Larry Spaul
SECRETARY OF THE SENATE

OTHER ACTION:

April 9, 2003

Engrossed

April 10, 2003

Sent to House

Engrossing Clerk

Mandi Alexander

APR 10 2003

Received from the Senate

APR 14 2003

Read first time and referred to Committee on Licensing & Administrative Procedures

MAY 01 2003

Reported _____ favorably (~~amended~~) (~~amended~~)

MAY 05 2003

Sent to Committee on (~~Calendar~~) (Local & Consent Calendars)

MAY 16 2003

Read second time (~~comm. subst.~~) (amended); passed to third reading (~~failed~~) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

MAY 16 2003

Constitutional rule requiring bills to be read on three several days suspended (~~failed to suspend~~) by a vote of _____ yeas, _____ nays, _____ present, not voting

MAY 16 2003

Read third time (amended); finally passed (~~failed to pass~~) by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

by unanimous consent

MAY 16 2003

Returned to Senate.

MAY 16 2003

Returned from House without amendment.

Returned from House with _____ amendments.

Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

Robert Haney
CHIEF CLERK OF THE HOUSE

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays